

**Family Connections: the management of biological
origins in the new reproductive technologies**

Erica Victoria Haines

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Department of Social Policy, University of Newcastle Upon Tyne**

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Abstract

This thesis investigates the management of information about the biological origins of individuals conceived through the use of a third party; that is, by donated gametes or surrogacy. From a review of policy reports and academic studies of families created in this way, I identify three possible management strategies: complete secrecy; openness about the means of conception coupled with third party anonymity; openness about the means of conception, coupled with releasing the identity of the third party to the individual conceived, when adult. The middle strategy is exemplified by the Report of the Committee of Inquiry into Human Fertilisation and Embryology (the 'Warnock Report', 1984). This I explore in two ways: first through a detailed analysis of the Report itself, then through a series of in-depth interviews with committee members. I conclude that although the Report can be read as a prescription for the creation of 'normal families', in which the above management strategy on origins is a device for protecting ideologically-correct but biologically-anomalous families, from the interviews it appears that this represented a suspension of more profound difficulties experienced by members when discussing these issues. These difficulties arose from what members found to be an irresolvable dilemma over the contribution of biological factors to family life. In the final chapter I examine the nature of the contrast between the Report and the interviews; I then locate the above dilemma in broader theoretical debates and finally I suggest that the strategy of recommending anonymity between all parties exposes rather than resolves the tension between the 'biological' and the 'social' in everyday, lay, reasoning about family life. In the light of this conclusion I speculate on possible developments in the management of origins information and the likely impact of third parties being named in the future.

Erica Haines

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PREFACE

Dockery and Son

To have no son, no wife,
No house or land still seemed quite natural.
Only a numbness registered the shock
Of finding out how much had gone of life
How widely from the others. Dockery, now:
Only nineteen, he must have taken stock
Of what he wanted, and been capable
Of ... No, that's not the difference: rather, how

Convinced he was he should be added to!
Why did he think adding meant increase?
To me it was dilution. Where do these
Innate assumptions come from? Not from what
We think truest, or most want to do:
Those warp tight-shut, like doors. They're more a style
Our lives bring with them: habit for a while,
Suddenly they harden into all we've got

And how we got it; looked back on, they rear
Like sand-clouds, thick and close, embodying
For Dockery a son, for me nothing,
Nothing with all a son's harsh patronage.
Life is first boredom, then fear.
Whether or not we use it, it goes,
And leaves what something hidden from us chose,
And age, and then the only end of age.

Philip Larkin (1963)

Many of the sentiments expressed in Larkin's poem provide the backdrop to this study: what it means to have children or not to have children; whether children are an addition to the self in providing a future or a 'dilution' of the self, by blurring any sense of uniqueness and individuality. Reactions to such questions might differ if assumptions about the biological tie between parents and children could be relied upon no longer.

The decision to have, or to enable others to have, children with whom there is an incomplete genetic relationship, is a significant social development. Through the use of donated sperm, eggs and embryos, and through surrogacy, individuals and couples are 'added to' in the sense of having children, but are not 'increased' genetically, since the child will instead bear the genes of at least a third person and, in some cases, a fourth person too. There are many consequences of that decision but one in particular provides the focus of this study: the uncertainty of how to handle information about that child's genetic origins. One strategy might be to disguise the lack of a genetic link, another might be to deny its importance, others might be to confront or celebrate the creation of a non-genetic relationship. The choices are not simple as each has implications for how we think about individuals, parents, children and families. A recent newspaper article gives a flavour of what is involved. Under a headline 'Losers in the egg and sperm race' Christine Walby and Barbara Symons condemned the secrecy surrounding artificial insemination by donor (AID) and argued for the right of people conceived with the help of hitherto anonymous third parties to gain as much information as possible about those third parties. They saw this information as vital to a development of a proper sense of identity and therefore regarded non-identifying genetic information as insufficient. Walby said the secrecy surrounding AID was a wish 'to make everything seem as normal as possible' (The Guardian, 13/7/89). The article also cited a recent television programme which had featured Suzanne Ariel, a person conceived through AID, arguing for similar rights of access to information. The studio audience was invited to vote on this: 75% said a person should be told s/he was the result of AID, but almost as many also

said s/he should not be given identifying information about the donor.

Dr Ruth Curson of King's College Hospital responded to the article by asking,

If we enforce honesty about egg and sperm donation, are we going to be logical about the whole thing and tissue-type every child in the country together with his or her parents and make sure the child knows that it is the product of an extramarital affair or will we continue to have different standards for different groups?

(The Guardian, 20/7/89).

Similarly a gynaecologist on a radio programme the previous year (Woman's Hour, Radio 4, 22/1/88) asked whether it helped a child to be told about his/her conception and the identity of the donor. He questioned the importance of an exact genetic identity when compared to the quality of the upbringing, as contributions to producing a happy child and adult. It is this type of debate which I wish to explore in this thesis.

My purpose from a specifically sociological perspective, is to contribute to our understanding of the social world in several ways. First, the fact that a child's origins is even an issue in the first place indicates that biological and non-biological family relationships are highly significant to the way in which we order the social world. However, it is less clear in just which ways they are significant. It is hoped that by studying a situation which conflicts with our presuppositions about the norms of social life those suppositions can be rendered explicit and visible. The study of the apparently deviant also sheds light on the apparently normal. Thus we can begin to pin down the role played by biological and non-biological factors in family life.

Second, I should like to help to establish the legitimacy of a sociological analysis of what have become known as the 'new reproductive technologies'. Though the last two decades have seen a proliferation of

clinical accounts about the development and deployment of these technologies, sociologists, with the notable exception of Robert Snowden and his colleagues from Exeter, have made little impact on this field. A need to consider the 'social' aspects has tended instead to result in philosophers and lawyers examining the rather individualist concerns of ethics and rights. In contrast a sociological analysis might focus on the social institutions, such as 'medicine', 'law', 'the family' which underpin the very existence of these technologies. Specifically, a sociological analysis of the management of information about the child's origins will identify how these and other institutions have claimed ownership of the issues surrounding the reproductive technologies, such that they then have a strong influence on what becomes identified as a problem and what constitutes an appropriate solution. My particular analysis which centres on the work of the Committee of Inquiry into Human Fertilisation and Embryology (the 'Warnock Report', 1984) as an exemplification of these issues, is presented through a broader exploration of the following areas:

In Chapter 1 I introduce the central issues in more detail and suggest that earlier research which Noel Timms and I conducted on adult adoptees seeking information about their natural parents provides a useful set of sensitising concepts for this investigation (Haines and Timms, 1983; 1985). Whilst not assuming a simple parallel between the two situations, I argue that both can benefit from a sociological analysis which takes into account the institutional and cultural background to these social practices.

In Chapter 2 I place the Warnock Report in a historical review of a series of accounts from those involved in the management and use of the

new reproductive technologies, and establish that (a) most regard the handling of information about the child's genetic origins as a problematic aspect of these procedures and (b) that three distinct strategies for resolving that problem may be identified.

In the third chapter I explore in greater depth one of these strategies, that recommended by the Warnock Committee of telling the child and others that s/he is not the genetic offspring of the nurturing parents, whilst at the same time not revealing the identity of the actual genetic parent(s). Since there are inconsistencies in the explanation given in the Report I suggest an alternative framework for understanding this strategy.

In Chapters 4 and 5, I explore the validity of these alternative explanations through the analysis of interviews conducted with members of the Warnock Committee, in an attempt to gain a clear understanding of the reasoning which lay behind their choice of strategy.

In the final chapter I outline the practical and theoretical lessons which might be derived from this study.

CHAPTER 1

A QUESTION OF ORIGINS

Introduction

This thesis explores one of the major social consequences of the deployment of the new reproductive technologies: the creation, through the use of gamete donation or surrogacy, of families in which the adults and 'children',¹ are not genetically related to each other. Since it is assumed that, in most families, the 'children' and parents are genetically related the absence of such a connection is socially significant and decisions have to be made, by parents, by professionals and by policy-makers, on the best way to manage this form of deviance. In particular should the 'children' themselves be told the circumstances of their conception and, if so should they be told any details about the third party (the donor or the surrogate) who contributed to that conception?

In some ways this is not a new problem since similar questions have arisen in the field of adoption, for example. However the new reproductive technologies have increased the number of possible ways to create children with only a limited genetic link to the adults who rear them and each raises new questions of its own, regarding the management of this information. The most commonly used technique hitherto is artificial insemination using donated sperm and the prevailing practice amongst clinicians and parents is not to tell the 'child' about the conception and to render information about the donor unknowable. This however has been challenged, most notably by social workers, social

scientists and some policy-makers who advocate greater openness at least about the method of conception (Snowden et al, 1981; 1983; Daniels, 1988; Lasker and Borg, 1989). Each side of the debate believes that it is acting in the 'child's' best interests.

This study investigates that debate by taking as its focus the work of the Warnock Committee which was set up by the government in 1982 to examine the social, ethical and legal implications of the new reproductive technologies. Through a detailed analysis of its report and interviews with its members, it is possible to see how the Committee grappled with the problem of managing information about origins and reasoned its way towards a particular resolution. In making that reasoning as explicit as possible we discover the repertoire of concerns which informed their final decision and which alert us to the wider social significance of this apparently narrow topic, most notably the significance of genetic and biological ties to the notion of 'family' and 'family-ness'.

In the rest of this chapter I shall delineate more precisely the issues of immediate relevance to the investigation of the management of information about the 'child's' origins. There are three sections: the first defines the range of reproductive technologies involved and explores how the problem of managing origins is manifested in each; the second section describes how earlier research on adult adoptees seeking access to information about their biological parents provides a range of sensitising concepts for the current study; the third section reviews the rather sparse literature which has addresssed these issues.

Issues of origins in the new reproductive technologies

In this section my purpose is to explain my use of certain terminology and to identify the issues surrounding the handling of origins information as they arise in each of the new reproductive technologies.

The question of managing information about the child's biological origins arises in the new reproductive technologies when a third party is used to donate sperm or eggs, or to act as a surrogate mother. This becomes necessary when one of the parties in a marriage or partnership is unable to play their full procreative role, usually, though not always, because of infertility.² However, as Snowden (1989) has remarked, words and how we use them, matter, particularly in this subject area, so before launching into a detailed description of each procedure it is useful to clarify the terminology used and to acknowledge some of its limitations. First the phrase 'the new reproductive technologies' (NRTs) is not wholly satisfactory since not all the procedures are new and not all are particularly high technology, artificial insemination being an obvious example. However, it is attractive for my purposes precisely because it does incorporate those other procedures and prevents the origins issue being confined to artificial insemination by donor.³ Second, and perhaps more important for this study, I shall be using the phrase 'third party conceptions' which requires some consideration. I shall use it to refer to conceptions from donated sperm, eggs and embryos and to conceptions from surrogacy. There are some problems though if this phrase is used without caution. For example, 'third party' could imply a 'first' and 'second' party, that is, a couple receiving the assistance of someone else. Attempts to restrict the use of these

procedures to couples (married in particular) is seen as contentious in some circles and highly desirable in others; it is an issue which will receive more detailed consideration later in this thesis. Another problem is that it focuses attention on the recipients and the third party leaving other aspects, such as clinical practice, policy-makers and the wider societal context unmentioned. This is also an issue I shall return to later in the thesis. Finally, the phrase is really shorthand for 'third and fourth party conception' in the case of embryo donation and it has a rather different meaning when applied to surrogacy in which the third party contribution to the pregnancy and birth far exceeds that of any form of gamete donation. However, alternative phrases such as 'donated conceptions' are too narrow and 'assisted reproduction' too general; 'third party conceptions' demands that attention be paid to the role of the donor and the surrogate.

As I turn now to describe the different types of third party conceptions it will become apparent that there too the terminology, even that which is reasonably well established in the clinical and scientific world, is saturated with social connotations. Artificial insemination is one of the NRTs which is neither new nor particularly high technology, but has become included in that umbrella term in much of the literature because of a certain similarity in the associated issues. As a technique it involves the depositing of a quantity of semen in a woman's vagina, by means of a syringe rather than by sexual intercourse. Two types of artificial insemination are practised, according to whether the sperm comes from the husband of a married couple (artificial insemination by husband, AIH) or from a donor (artificial insemination by donor, AID). The distinction between the two is social rather than clinical since the

technical procedure is the same for both.⁴

My main interest in this technique is with artificial insemination by donor. The first case of this was reported in 1909 but referred to an insemination which was actually performed in 1884, the twenty-five year delay being directly attributable to the uncertainty about public reaction to the technique (Snowden and Mitchell, 1981:13). Estimates for its current usage vary, but Downie suggests that approximately 100,000 children have been born through AID in the USA and about 10,000 in the United Kingdom (1988:79). It is used when a male partner is either sterile or has a very low sperm count, or possibly because he risks passing on a hereditary disease to any genetically-related children. That explanation of course disguises a significant shift in decision-making when a couple and their physician decide to stop trying to produce a child genetically-related to the male as well as the female partner and seek assistance from a sperm donor instead (Lasker and Borg, 1989). It can also be used by women wanting a child and wishing to avoid sexual intercourse with men. Technically the sperm donor can be any fertile male; however, it is thought that the most common practice is to use a donor unknown to the recipients. The other sorts of questions raised by the use of AID revolve around whether the 'child' is legitimate, whether AID constitutes adultery, who counts as the 'real' father and how the 'child' should be registered. It is thought that in most cases the male partner registers as the 'child's' father, though until recently this was an offence in the UK. These points have been cited as some of the reasons for keeping the use of AID secret from friends and family.

In vitro fertilisation (IVF) is both new and highly technological.

It involves the collection of an egg from a woman's body and the collection of semen from a man, to enable the egg to be fertilised outside the body, in a glass dish, since damage to the woman's reproductive organs means fertilisation cannot take place inside her body. Robert Edwards and Patrick Steptoe (1980), a clinical scientist and a gynaecologist respectively, developed this technique and were responsible for the conception which led to the birth of the world's first 'test-tube baby', Louise Brown⁵ in July 1978.

The technique of IVF does not of course require the egg and sperm of a married couple: any egg and any sperm can in theory be used. Egg donation became a possibility through IVF and the first birth recorded from a donated egg was in November 1984 in Australia. Though sometimes referred to as 'the female equivalent of sperm donation' (Downie, 1988:213) the procedures surrounding egg donation are much more complex; in particular there is the necessity to co-ordinate the menstrual cycles of donor and recipient, and then to collect the donor egg(s) by surgery, laparoscopy or ultrasound. Egg donors are therefore more difficult to recruit and clinicians appear to prefer to use friends or relatives of the infertile woman to overcome this difficulty. No assumptions can therefore be made about the anonymity of the donor. This is one of the key debates surrounding the use of egg donation and has implications for the management of information about the resultant 'child's' origins. The other key question is 'who is the real mother?' since it is now possible for a 'child' to have a genetic mother who is not the same person as the woman who has given birth to him/her.

Embryo donation, first successful in January 1984 involves a donor egg being fertilised in vitro by donor sperm and the resultant embryo

being transferred to the woman.⁶ A number of variations in the relationship between the donors and recipients is possible: the two donors may be completely unknown to each other, or they could be a couple who have produced embryos in excess of their own needs. Equally they may or may not be known to the recipients but as with egg donation there appears to be a higher possibility of some contact, if only through attendance at the same clinic. Again this has certain implications for the handling of information about the child's origins, particularly as the questions about parenthood are complex: the procedure has been referred to as 'pre-natal adoption'.

Surrogacy appears to cause many commentators even more confusion. In simple, and highly generalised terms, surrogacy involves a woman carrying a child for an infertile couple. As far as that description goes the procedure is neither new nor technological. However the new reproductive technologies have enabled many variations to develop on that theme leading to the involvement of four or even five individuals in the creation of one child.⁷ It is very difficult to provide any estimate of the number of surrogacy cases, though Morgan has tried and suggests at least forty three cases have occurred in the UK since 1976 (1989:68). In many of the variations considered below it is possible that, as yet, no cases have occurred. However, as with the other procedures considered so far, the issue is less one of prevalence and more one of possibility: as long as any of the procedures are possible it is legitimate to inquire into the handling of information about the 'child's' origins.

The two most commonly discussed versions of surrogacy are those which Page has called 'genetic surrogacy' and 'gestatory surrogacy' (1985). Genetic surrogacy is likely to be the oldest form practised since it is

the least technological. It involves a surrogate mother supplying her own egg and receiving the sperm from a male, either by sexual intercourse or by artificial insemination. Page's label refers to the fact that the surrogate mother is genetically related to the child she then carries, births and gives to the commissioning parent(s). In contrast, gestatory surrogacy refers to the procedure whereby the female commissioning parent supplies the egg, the male commissioning parent supplies the sperm, fertilisation either takes place in the female's body or by in vitro fertilisation and the embryo is then transferred to the surrogate. This is gestatory surrogacy since the surrogate mother has no genetic relationship to the child; rather, she gestates the foetus for nine months, gives birth to the child and hands him/her over to the commissioning parents. Of course the simple descriptions disguise complex social processes.

Other variations of surrogacy depend on the source of the gametes since a commissioning couple (or single person) could deploy donated sperm or a donated egg or both, to create an embryo which is then transferred to the surrogate. Equally the surrogate could supply her own egg and sperm, by becoming pregnant with her own partner but with the intention of giving the child to a commissioning couple. The questions surrounding this last example show just how blurred the notion of surrogacy can become: can a couple having a child without third party intervention be surrogates for another couple? A variation which cuts across all these examples is the fact that any of the surrogates and any of the donors may be related to one of the commissioning parents. Thus surrogacy raises important questions for all the parties involved, as well as wider administrative and legal structures, not the least of which

is 'who are the real parents?'. The question about origins is whether it can be considered a good idea for so many individuals to be involved in the creation of a child and, if so, should the 'child' and the wider world, be told?⁸

Having reviewed the range of major procedures which will be most commonly referred to throughout the thesis it is now useful to step back from the technical details to survey the types of intra and extra-familial relationships which surround the 'child' who has his/her origins in the deployment of these techniques. Robert Snowden and his colleagues (1983) devised an original nomenclature to cover the contributions made by the different parties to a child's creation. The woman's role is divided into three distinct types: the genetic mother, the carrying mother and the nurturing mother; where one woman undertakes all three roles she is described as a 'complete mother'.⁹ However, various combinations are possible: for instance, a woman could be both genetic and carrying, but not nurturing, (as in Page's genetic surrogacy) or genetic and nurturing but not carrying (as in the commissioning mother using gestatory surrogacy) or carrying and nurturing but not genetic (as in egg donation). A similar distinction can be made in the male role: a man can be a genetic father or a nurturing father, or both.

These relationships, especially when presented in tabular form (see Table 1.1), show just how complicated it might be to describe the 'origins' of any particular 'child' resulting from these procedures. Several points should be emphasised about Table 1.1. First, it is difficult to cover all the possible combinations so although it is already fairly complicated, it still presents a simplified version of the

Table 1.1 Family relationships created through third party conceptions

<u>Family created through:</u>	<u>Child's relationship to nurturing father:</u>	<u>Child's relationship to nurturing mother:</u>		<u>Child's relationship to third parties:</u>	
	<u>Genetic</u>	<u>Genetic</u>	<u>Carrying</u>	<u>Genetic</u>	<u>Carrying</u>
(i) Donor Insemination	X	/	/	/	X
(ii) Egg donation	/	X	/	/	X
(iii) Embryo donation	X	X	/	/	X) X)
(iv) Gestatory surrogacy	/	/	X	X	/
(v) Genetic surrogacy	/	X	X	/	/
(vi) Gestatory surrogacy, using donor sperm	X	/	X	X /	/ = a X = b
(vii) Gestatory surrogacy, using donor egg	/	X	X	X /	/ = c X = d
(viii) Gestatory surrogacy, plus donor embryo	X	X	X	X / /	/ = e X = f X = g
(ix) Genetic surrogacy, plus donor sperm	X	X	X	/	/ = h X = i

X indicates absence of a genetic relationship; / indicates presence of a genetic relationship

a = surrogate	d = egg donor	g = sperm donor
b = sperm donor	e = surrogate	h = surrogate
c = surrogate	f = egg donor	i = sperm donor

'child's' origins; second the table would look somewhat different if the donors or surrogates were siblings to the nurturing parents since the nurturing parents would in fact then have a genetic relationship with the resultant 'child'; third, it might seem rather obvious to point out that the nurturing father can never have a carrying relationship with the 'child', but it is perhaps less obvious that the third parties can never have a nurturing relationship with the 'child' since the way these practices work is to separate the third party and the 'child'; fourth, it emphasises the power of surrogacy to make the 'child's' origins particularly complex, yet this procedure is probably the least discussed in terms of the origins question, in the literature.

With this increasingly complex picture in mind, it would now be useful to examine more closely what might be involved in the idea of managing information about the 'child's' origins. At this stage the discussion will be dominated by three sets of questions, which will then be addressed throughout the thesis. The first set of questions concerns the idea of 'managing' information about the 'child's' origins which implies an element of planning or of formulating policy, both formal and informal. In terms of formal policy: has this been an issue dealt with by formal policy or legislation? If so, have those policies favoured openness or secrecy about the 'child's' origins? How do current policies compare with past, and UK policies with those elsewhere? On the level of informal policy have any practices developed, amongst clinicians and parents in particular, which have come to be regarded as the norm? Finally, are there (or should there be) differences between the formal and informal management of information concerning the 'child's' origins?¹⁰

or of formulating policy, both formal and informal. In terms of formal policy: has this been an issue dealt with by formal policy or legislation? If so, have those policies favoured openness or secrecy about the 'child's' origins? How do current policies compare with past, and UK policies with those elsewhere? On the level of informal policy have any practices developed, amongst clinicians and parents in particular, which have come to be regarded as the norm? Finally, are there (or should there be) differences between the formal and informal management of information concerning the 'child's origins'?¹⁰

A second set of questions is implied by the first: who has to manage this information? I have already mentioned policy-makers, clinicians and parents, but other groups are also involved. For example, do the third parties have to manage information, either about their involvement as third parties or, even more directly, about a particular 'child's' origins, if that child is known to them? If so, how do they manage it? Equally, do those 'children' and adults who know about their non-genetic relationships to their parents have to learn to manage this part of their biography? Do their parents encourage one style of management over another? Relationships between the parties are a significant aspect of who manages, and how; for example, relationships between parents and 'children', clinicians and donors, policy-makers and children, and so on might all imply the exchange of very different types of information.

This takes us to my final set of questions: what sort of information concerning a child's conception and birth counts as 'origins' information? This would include information, available in a variety of forms, about both people and procedures. First, people-related information: what might individuals desire to know about the different

types of parents involved in their creation and what might other individuals deem it appropriate for them to know? Is 'origins' information taken to refer specifically to information about genetic parents or would information about, for example, non-genetic carrying mothers be included? Whoever it referred to, would the information be identifying or consist of a general description, or both? Would the use of a third party from within the family be considered grounds for identifying him/her, or, conversely, for hiding his/her identity? In terms of the procedures, would it be considered appropriate to release information about the method of conception, in detail? Overall, is it deemed more appropriate to tell about both the donation and the donor (i.e. procedure and people) or just the donation, or neither? Finally, is the form in which the information could come considered important and would that form affect the possibility of access? Information could be available through word of mouth, through documentation or through direct contact, but if, for example a 'child' wanted to meet a third party rather than just read about him/her, would this be allowed?

It is apparent by now that the issues surrounding the management of information about the origins of a child created through third party conceptions are highly complex. However, my approach to this study has been helped by my earlier research on adoptees seeking access to information about their natural parents, so I shall now describe the salient points from that research, to indicate the links between the two studies.

Lessons from earlier research

My interest in the handling of information about the child's origins

in the new reproductive technologies arose out of earlier research I conducted with Professor Noel Timms (Haines and Timms, 1983; 1985). The aim of that research was to evaluate the retrospective piece of legislation (section 26, Children Act 1975) which provided adult adoptees in England and Wales¹¹ access to their original birth records, which would tell them the name of their biological mother, where she was living at the time of their birth and their own original names. It was thought, by those who engineered the passage of the legislation, that this information would help to resolve what was seen as an actual or potential identity crisis in adoptees who had grown up knowing nothing or very little about their biological origins. The work of John Triseliotis was particularly influential. His research on adoptees using similar provisions in Scotland found that few people actually applied for access but that those who did, had a 'deeply felt psychological need'. Even fewer tried to trace their natural parents, but that those who did had had a flawed adoption experience (1973: 154-166).

This was a controversial piece of legislation however since it was seen by some as a betrayal of two sides of the 'adoption triangle', that is, the natural mothers who now ran the risk of being discovered as such and the adoptive parents, who had raised these 'children' as their own. Questions were also asked as to the benefit adoptees, the third side of the triangle, expected to derive from this legislation. Because of this controversy it was decided to require those applicants who had been adopted prior to the implementation of the legislation to undergo compulsory counselling before being given access to their original birth records.

A brief summary of our conclusions is appropriate here as a prelude

to discussing the key sensitising concepts which arose from the study. On the very simplest level it was possible to say that the legislation 'worked', in so far as counselling was provided on a reasonably well organised basis and adoptees expressed a reasonable degree of satisfaction with the service they received. However, both groups were forced to realise that the provisions of the legislation were much more limited than many had expected. The counsellors were uncertain about the purpose of the compulsory nature of the counselling and were unclear about whether to provide extra information from the original adoption files. The adoptees were also unclear about the exact purpose of the counselling but nonetheless were pleased that the legislation existed since it was seen as a legitimisation of their curiosity. Many had previously felt, and were made to feel (as evidenced by the opposition to the legislation) ambivalent about their curiosity about their natural parents, on the one hand feeling it was reasonable to be curious but, on the other hand, feeling guilty about their interest. We did not find, as Triseliotis had, a simple correlation between those who wished to trace natural parents and those who had experienced a bad adoption; we were unable to divide the group of adoptees into those who only wanted information and those who wanted to trace (a division upon which Triseliotis' analysis depends) since their goals were not fixed but varied over quite long periods of time.

In reaching these conclusions it became apparent that other broader questions merited investigation. Five of these are particularly valuable to this current study. The first concerns why this information had been made unavailable in the first place, such that a culture of secrecy had grown up around adoption? Second, what notion of adoption is conveyed by

terms such as 'the adoption triangle'? Third, what are the effects of seeing origins issues in terms of concepts such as 'identity crises'? Fourth, how clearly is the 'child's' perspective represented in these discussions on 'adoption'? Fifth, what does it mean to tell an adoptee about his/her origins? A brief exploration of these five areas will indicate overlapping concerns with the origins issue in third party conceptions and my particular approach to this investigation.

The culture of secrecy which typified early adoption was embodied in the first Adoption Act (1926) and was associated with security: for the child, who could make a 'fresh start'; for the adoptive parents whose legal position as the child's parents was enhanced psychologically by the knowledge that the natural parents could never find them and for the natural mother who could also make a fresh start knowing that her surrender of the (usually illegitimate) child would never be discovered (Haimes and Timms, 1983:3). However, the experience of formal adoption in the 1940s and 1950s made it clear that keeping the fact of adoption secret both within and outwith the family was very difficult; it also became apparent that adopters and adoptees benefitted from being able to discuss the adoption. A trend towards encouraging familial openness developed but was accompanied by what we termed 'institutional secrecy' (Haimes and Timms, 1985:13). This limited what even the most open adoptive parents could tell the adoptee by ensuring that administrative and legal procedures constrained the availability of information through, for example, changing the child's name, issuing a new birth certificate, preventing access to the original birth certificate (except on appeal to the courts, which was very rarely granted), preventing access to the original adoption files, taking care over which names appeared on which

adoption papers and ensuring no contact between natural parents and adoptive parents. Each of these measures rendered the natural parents unknowable to the adoptee and the adoptive family unknowable to the natural parents.

To some extent the provisions of section 26 were seen as correcting the balance by making adoption much more 'open'. However, we had to argue that institutional secrecy still exists: for example, the information provided by section 26 is very limited and is only accessible through a complex application procedure; there is no right of access to court records nor to the original adoption files nor to other records to enable easier tracing of natural parents. In other words, even though adoption is now portrayed as being 'open' there are many features of administrative and professional practices, which keep some aspects tightly closed. Therefore, secrecy in adoption, identified by measures such as section 26 as a family problem, has in fact been an established feature of the legal and administrative structures which systematically rendered aspects of the 'child's' origins unknowable, even at a time when adoptive parents were being urged to be open about the fact of adoption itself. In a later analysis (Haines, 1988a) I suggested that these administrative practices reflected a wider cultural uncertainty about the identity of adoption as an institution, so there is uneasiness about practices which expose its features as a process creating non-biological related families, such as adoptees trying to find out more about their natural parents. This then relates to the second question, concerning the notion of adoption conveyed by terms such as 'the adoption triangle' (see for example, Sorosky, Baran and Pannor, 1978). This particular phrase was used to emphasise that each party within the adoption process,

natural parents, adoptive parents and adoptee, was inevitably linked to the other two and could not and should not try to, blot out their existence, even though the fact that they were linked in this way produced tensions. In several ways, therefore, the metaphor of the triangle worked very well. However, it also conveys another picture of adoption as well: that is, as a closed, limited field of experience to be made sense of in terms of personal and familial loyalties and tensions with no reference at all to the social practices which actually structure adoption in the first place. That is, the complex interweaving of professional, legal and administrative processes which, along with familial activities, create the phenomenon known as 'adoption'. We have already seen, in relation to secrecy, the need to go beyond the personal, private aspects of adoption to consider the public, institutional features which create, shape and sustain it. Here we see just how difficult it is to make that transition since one aspect of those professional practices is the definition of adoption as essentially familial in nature. This concept emphasises further the need to analyse the social context of adoption as widely as possible.

Another phrase which occurred frequently within the adoption study and which therefore merited detailed consideration, was the notion of the 'identity crisis' which adoptees were said to experience through lack of knowledge about their origins (Haines and Timms, 1983:118). It is a phrase which arises when the starting point for an investigation is to ask why adoptees want this information as opposed to for example, asking why the information is rendered unknowable in the first place. Whilst the notion proved persuasive in achieving access to birth records it also proved damaging, since, by implication adult adoptees wanting information

were seen as being desperate and out of control.¹² Hence the suggestion that compulsory counselling could act as a brake on potentially irresponsible adoptees. The desire for information about origins became characterised as a pathology, albeit one which could be corrected. This reduces the 'origins' issue to a problem of the individual psyche, which in turn results in the neglect once again of the social dimensions, such as through the failure to consider the initial withholding of the information. However, we formed the view from our research that it was also just as important to understand identity as a social concept, since the identity 'problems' in adoption were to do with being 'socially' different as much as with an internalised sense of loss. The adoptees' own presentation of their problems with adoption lay in their inability to account for themselves in sufficient detail when necessary such as knowing their medical history, or family tree, or the circumstances of their birth. They were in fact keen to minimise any sense of themselves as being in crisis by the use of what we termed 'just-talk'; for example, 'I just wanted to know my name'.¹³ We also argued that identity problems should not be attributed only to the adoptee. Adoption is a case of 'shared fate' between adoptees and adopters (Kirk, 1964; 1981) and therefore the problems that adopters have with perhaps being infertile should be considered too. Natural parents too may suffer the stigma of being identified as a person who gave their child away. In other words all parties in adoption may have 'identity' problems but these are essentially social in character, related to the image they are attributed with through their very association with the practice, rather than being a privatised pathology.

A fourth area of concern is the status of the 'child' in these

discussions. This also relates to the previous consideration of identity. Several points coalesce around this issue, the first being the evident ignorance about the 'child's' views of the adoption experience and therefore about what s/he might want as s/he matures. The first systematic knowledge did not emerge until McWhinnie's study published in 1967, forty years after the implementation of the first adoption act. Thus, without this knowledge, it was possible to reason that secrecy about their biological origins was in the adoptees' best interests since it also appeared to be in the interests of the adoptive and natural parents. Although it is notoriously difficult to define and to decide what serves the child's best interests (Chemerinsky, 1979; Blyth, 1988), some assistance might have been gained from the 'children's' own views. However, part of the reason why adoptees were given so little opportunity to voice their views perhaps lay in the tendency in discussions of always referring to 'the adopted child'. This has the effect of adoptees being seen as child-like: potentially irresponsible and certainly in need of guidance, rather than as independent adults with their own perspective on the adoption experience (Haines and Timms, 1985:80).

These ways of viewing the adopted person suggest that any discussion of their 'right' or 'need' to know anything about their origins will be highly coloured by a generally uninformed picture which presents them as possibly immature people who nonetheless have passed through a system that has, on the whole, been of benefit: a view which in turn depends on being able to measure the 'outcome' of adoption which itself is highly contentious. Finally, there is a need to look critically at what is meant by 'telling' someone about his/her origins. This requires a discussion of the idea of 'telling' and of the idea of 'origins'. First,

'telling': as with many of the issues discussed already this seems to require a distinction between familial and organisational factors. From the adopted adults' accounts of their adoption experience 'telling' was not a simple process within most of the families. Nearly two-thirds knew of the adoption before the age of nine (Haimés and Timms, 1983:188) and thus on a simple level it could be argued that their parents were open with them. However, being told about adoption was not the same as understanding the significance of adoption and what it means in a wider sense. For many this realisation did not come until years after being told of their adopted status. Nor was it a subject freely discussed. For many adoptees therefore 'knowing' they were adopted did not mean they knew any details about either the adoption process or, indeed, about their biological parents. Uncertainty about what constitutes 'telling' is apparent in the organisational context of adoption too. Simon and Altstein describe four completely different arrangements for providing access to birth records in the United States, varying from disclosure of information only on grounds of 'good cause' to completely open records on demand (1987:52). Our research suggested that three markedly different styles of compulsory counselling had developed under section 26, ranging from the 'safeguarder' who provided only the absolute minimum of information, to the 'enabler' who helped the adoptee gain additional information, to the 'detective' who hunted out most of the information, would help trace natural parents if the adoptee wished and would act as mediator to set up a meeting with the natural parent(s) (Haimés and Timms, 1985:39-49). Clearly, 'telling', 'providing information', 'access to birth records', all can mean very different things.

Therefore, difficulties with 'telling' are manifested in both the

familial and the professional setting and both present difficulties for the adopted person. Even though section 26 was supposed to resolve the familial difficulties, it also provoked other problems. As a facility it signifies two transitions from passivity to activity, and from the private to the public domain: that is, deciding not to rely passively anymore on the family for information but to seek it instead from the professional domain. This brings its own fears: for example, the fear of hurting adoptive parents; the fear of what might be discovered; the complexity of the application procedure; the fear or dislike of the idea of social workers and/or compulsory counselling.¹⁴ A consideration of the management of information about origins entails therefore an examination of how delivery of that information is handled

However, one final question that a subsequent study might ask of the original research is: what constitutes 'origins'? What is being sought and what is being hidden? This is perhaps the area of research which is least clear and it merits far greater attention than it has so far received. Having rejected Triseliotis' clear distinction between adoptees who 'only want information' and those who want to trace, as an oversimplification, we found ourselves suggesting a range of contrasts to convey information about origins. Some wanted to learn facts about their background and were less concerned about the source, accepting information from the files but suspecting also that their natural mother was probably the only person who really knew the facts, so finding her would be a step in the search. In partial contrast there were those adoptees who regarded meeting their natural mother as the only adequate way to really know 'what happened'. The contrast appeared to be one of knowing through written information and knowing through personal

acquaintance. Another contrast was drawn between those who regarded information about their origins as clarifying their past and those who regarded it as contributing to their present in some way. For example, some adoptees talked about wanting to know where they 'started out'. Others talked of reformulating current relationships in the light of discovering other (biological) relationships. A third contrast centred around the artefacts of origins, like the birth certificate: for some adoptees it was a vivid symbol of having been someone different; for others it was merely a source of valuable information to take their inquiries further. A final contrast emerged in the group who were clear from the outset that they wanted to meet their natural mothers: there were those who wanted to exchange information, to show their natural mothers that they were alright and to see what else they could learn from them; then there were those who saw such a meeting as a culmination of the search and a confirmation of feelings about the self (Haimés and Timms, 1983:120-124). These contrasts are not supposed to represent characteristics of discrete groups of people but rather to shed some speculative light on the term 'origins' and to escape the oversimplification of the phrase 'the search for identity'. It is clear that to 'tell', or refuse to 'tell' someone about their origins or to 'tell' only certain selected items, is a highly complex matter that the adoption study only really touched on. Whether to tell seems to have been answered, but what to tell (or ask for) is still unclear.

To sum up then, our previous research suggests that these broader factors are important when considering (in research and in practice) the management of information about a 'child's' origins:

- (i) as well as (or instead of) asking why those 'children' might want information about their origins, consider how and why that information was rendered unknowable in the first place and whether that reflects certain cultural values about biological family ties;
- (ii) consider the professional and administrative practices which structure and define the context in which information about origins becomes an issue, rather than limit consideration to the familial setting;
- (iii) acknowledge the interweaving of the concerns of all the parties involved (natural parents, social parents, 'child', professionals, legislators) and place those concerns in the widest social context possible, rather than focus on individualist explanations like the 'identity crisis';
- (iv) consider the 'child's' perspective as an adult;
- (v) appreciate the complexity of the subject, insofar as terms like 'telling', 'origins', 'identity' and 'secrecy' are shorthand for a complex network of social interaction.

Before outlining the specific implications such prescriptions have for my own study I shall present a brief review of the literature which has addressed the issue of origins in the new reproductive technologies: we shall see that it is only the relatively sparse work by sociologists which attends to any of the points above.

Literature review

It is useful to be able to situate one's research in the body of work which already exists on a topic, to clarify how the existing material has influenced current ideas, to identify the strengths and weaknesses of earlier work and to see if it is possible to contribute new material to

advance the discussion. Unfortunately there is only a small, albeit growing, body of sociological work on the reproductive technologies in general and even less on the specific issue of information about origins. There have however been other discussions on this issue, informed by other disciplines such as law, which are useful in stimulating a sociological analysis. Therefore, for the sake of clarity I shall divide this review into three sections: first, those generalised expressions of concerns emanating from a variety of disciplines; second, a section dominated by writers from the social work field who have explored the usefulness of drawing lessons from the adoption field to apply to the arena of reproductive technologies and finally those specifically sociological analyses. I shall draw out general points from this review and indicate how they relate to the approach that I shall be taking to this topic.

(1) Professor G R Dunstan, the moral theologian who has been highly influential in discussions on the ethics of the new reproductive technologies, was one of the first to express serious concern about the question of how much information about a child's origins should be made available. He argued that the failure to name the 'true father' of an AID child on the birth certificate amounted to 'moralism' compromising 'truth':

a judgement that the act ought not to be done, while it continues to be done, gives rise to an accumulating deceit upon society, both in records and relationships. (1973:48)

Such practice undermined the attempts of social polices, such as birth registration, he argued, to provide a true and accurate record for the use of society.

It is, therefore, a matter for serious concern that a new medical practice, grounded upon scientific research and so upon the high value put on truth, should in fact result in and to some extent require, deceit and uncertainty. The secrecy involved in AID obliges the practitioner, the husband and wife, and the donor to conspire together to deceive the child and society as to the child's true parentage, his genetic identity. Truth is violated; credibility is undermined; and this is a serious ethical matter. (1973:48)

Annas (1980) argued that secrecy about the child's origins persisted through fear of the legal consequences for the sperm donor. These he believed to be exaggerated and anyway not sufficient excuse to neglect the best interests of the AID 'child' which should be 'beyond the best interests of the sperm donor'. He argued that the consequences of secrecy were that 250,000 'children' would never be able to find their biological roots and no data were available on their psychological development or family life. His paper received a mixed reception from the conference at which it was originally given, drawing support from several speakers but opposition from Professor Melvin Taymor who argued that secrecy was 'the very essence of the success of AID' and that it was unnecessary to tell an AID 'child' about his/her origins because, unlike adoptees, they do not have a biological parent elsewhere:

There is no need to do that in AID, other than just for the purpose of the knowledge itself. Once you open the door, then they will have the right to seek out who the donor was and this will open up all kinds of problems and will probably destroy the treatment. (1980:342)

Joyce (1982) also argued against breaking the secrecy surrounding AID but in so doing provided a useful outline for distinguishing between degrees of openness and ways of achieving that openness. Openness started with the recipients sharing their use of donor insemination with family and close friends; the next step would be to tell the 'child', the step after that would be to make it known to society in general; the final step would be to make the donor's identity knowable to the 'child' and his/her

family. He identified the mechanisms for effecting greater openness: one would be 'spontaneous', that is leaving it entirely up to the couple to decide if and when to tell others; another he described as 'induced' by which he meant that one could aim to change society in such a way that AID couples were then able to be more spontaneously open; another mechanism would be to advise couples to be more open, receiving the same sort of direct guidance that is given to adopters; finally there could be legal requirements to ensure the 'child' knows his/her AID status and the identity of the biological father. Unfortunately this typology presents as mutually exclusive situations which could very well co-exist and is not clear about the differences between who would be initiating and effecting this openness, at some points referring to personal decisions, at other points matters of public policy. However, an awareness of these different levels suggests an advance on the purely ethical analysis.

The final¹⁵ piece of work which demands consideration in this category is from the editors of a collection entitled 'Truth and the Child', a series of papers brought together to 'consider specifically the validity and extent of the need of children to know their parentage. Was total secrecy in the interests of the offspring of donors of gametes or not?' (Bruce et al, 1988:1). Their conclusion was that on the varied grounds of research evidence, ethical considerations and practical reality, there should be greater openness in donor insemination, to the extent of identifying donors. Simply telling about the donation in non-identifying terms is

a half measure. It subordinates the interests of the child to those of the gamete donor and the infertile parent. (1988:8)

Their warning to future legislators was, 'Parliament should beware of passing legislation which will effectively prevent young people from

knowing who they really are' (1988:8).

(ii) A distinctive alternative approach can be found amongst a group of writers who make a stronger claim to be able to challenge the secrecy about origins, based on their practical experience in the adoption world. Foremost amongst these is a group based on a loose network around the organisation, British Agencies for Adoption and Fostering (BAAF).¹⁶ Brandon and Warner (1977) cite the claims made by another adoption worker, Holland (1971) that AID suffers from a lack of clear structures to regulate it, which has enabled secrecy to flourish. They argue that, despite various differences in the origins of AID children and adopted children, the management of secrecy about those origins within the family has the same effect: that children will detect their parents are 'living a lie' and will suffer as a result of the tension and uncertainty. Having seen the effects of this within adoption they have little hesitation in advocating the application of the same solution found within adoption, to AID: openness about origins, a view supported independently by Daniels (1988). Such openness could entail telling about the donation and providing positive details about the donor, but could retain donor anonymity if that is needed to reassure donors and to keep them donating. For Speirs, the case is starkly simple:

It is interesting that we have to argue that children have a right to know of their origins. They have no right not to ... (1988:20)

McWhinnie (1982) combined her own and Brandon's practical experience with her earlier research findings (1967) to continue the argument in favour of openness. She posed three questions about secrecy concerning the 'child's' origins: is it morally right? Can it be maintained for a life-time? If it cannot be maintained for a life-time (and she felt sure

it could not be since it proved impossible to keep adoption secret for a life-time) what are the risks to the child? Her conclusion was that secrecy was a device to hide adult embarrassment about discussing donor insemination. In a similar view, the BAAF Medical Group in a collection of papers called 'AID and After' argued that the similarities between adoption and AID centre on the fact that at least one parent is not a biological parent but that the families and professionals colluded to present them as 'normal' families. However, the growing awareness amongst adoption professionals that adoptees themselves were not entirely happy with this led to changes in adoption practice.

On the basis of this adoption experience we recommend that serious account should be taken of the possibility that AID adults will have a similar desire for true knowledge of their origins and will wish to be reared by parents who do not deceive them on this score. (1984:11)

Similar recommendations appeared in the other papers in the same collection. Elsewhere, Rassaby (1982:108) applied the 'lessons from adoption' to surrogacy too and argued that the child should have a legal right of access to his/her birth certificate and agency record to acquire the surrogate mother's name. However, the analogy with adoption can work in the opposite direction too. For example, Smith, writing from the United States, investigated the parallel between the two, accepted its validity and observed that (at the time of writing, 1980) since most adoptees there only receive non-identifying information that should also be sufficient for AID adults. Haderka (1987) goes one further and argues that since in Czechoslovakia adoptees do not receive any information about their genetic background there is no reason why AID adults should.

There are several criticisms of the adoption analogy however.

Sandler (1979) refers to AID as 'semi-adoption' and, in keeping with

this, accepts some parallels between the two and rejects others. For example, he regards adoption selection criteria as useful for AID but rejects any similarity between the two as far as the benefits of telling about origins. Whilst in adoption there is a history to recount to the child about the people involved, there is no such information to recount in AID because of the promise to donors of total anonymity. Therefore, there is little benefit to the child of being told even about the conception. He concludes, 'in my view no parallel exists at all between telling an adopted child and telling one conceived by AID of his origin' (1979:87).

Humphrey and Humphrey (1986) take the basis of the comparison between adoption and AID back to the original concept which underpins much of the thinking about the 'need to know' in adoption: the idea of 'genealogical bewilderment'. This is based on Sants' suggestion that all children brought up by substitute (i.e. non-genetically related) parents were likely to suffer some disturbance simply by a lack of certainty about their genetic origins, whatever the quality of their substitute family life. Humphrey and Humphrey call for a modification of the 'genealogical bewilderment' thesis, arguing that a good quality family life is likely to prevent problems of mental health arising from living with substitute parents, but does not mean that the 'children' will not display a (non-pathological) interest in ancestral knowledge. If the family background is unsatisfactory however then the 'child' may experience disturbance of mental health in the form of genealogical bewilderment. Therefore they argue that 'we may be in danger of overestimating the handicap of ancestral ignorance to children cut off from their roots' (1986:139). They suggest elsewhere that Brandon and others may be

pressing the analogy with adoption 'too far' (1988). Norrie (1988) suggests that those who wish to pursue the similarity still have the onus on them to prove the parallel exists, which he believes they have so far failed to do.

O'Donovan (1989) makes a more fundamental objection to the parallels drawn between adoption and AID. She suggests that the 'need to know' argument in both rests on an unexamined use of the concept of 'identity', which is presented as a 'natural' need whereas she sees it as socially constructed, used to assert the significance of the blood tie in parent-child relationships. This she sees as a 'retrograde step' since it can be used to assert the primacy of certain social norms, such as the biologically-related nuclear family. One final criticism of the attempt to use adoption to achieve openness in AID and the other reproductive technologies can be found in a paper I published in 1988. As mentioned earlier, I argued that the initial premise on which such comparisons are based needs to be questioned since openness within adoption is still limited on legislative, administrative and professional levels. I suggested that moves towards openness in adoption disguise (through their apparent openness) rather than remove (because those moves are in fact very limited) a certain feeling of uneasiness with the institution and that to extend the solutions from within adoption to the reproductive technologies suggests a similar ambivalence about that practice with the same result of disguising rather than resolving that ambivalence. In effect the above writers are working with an idealised view of the handling of origins in adoption. Adoption might however work as a precedent if seen as a source of questions which remain to be answered about biological and non-biological family relationships rather than as a

source of directly-applicable solutions (1988a).

(iii) The third category within this literature review contains the most directly useful material for my own work being sociological in character and thus sharing a similar perspective on these issues, even though our conclusions may differ. This is however a very sparse area, comprising the work of a Canadian doctoral thesis by Rhona Grace Achilles (1986) and the rather more extensive and influential work of Snowden and his colleagues. I shall review the latter body of work first. The central ideas developed by Robert Snowden, Duncan Mitchell and Elizabeth Snowden can be found in three major publications,¹⁷ the ideas of which have been further refined and adopted to different audiences in various other articles and presentations but the central concerns remain essentially unchanged because many of the practices upon which they are based are essentially unchanged too. In spanning what is often, in academic work, an unbridgeable abyss between theoretical, empirical and applied work, these texts present a rounded analysis of the social implications of artificial insemination by donor. Reference is also made to the other procedures but AID remains their focus. The analysis is motivated by neither a wish to condemn nor to celebrate that technique but to produce an informed discussion about the social impact of a procedure which is likely to affect ideas about marriage, the family and parent-child relationships and thus about the wider social order. Their concern with the social aspects of AID very quickly takes them to a consideration of the secrecy which characterises the practice of AID. Their view is that secrecy is central to the way in which the AID family manages its social status, based on the expectation of a negative reaction were the secret to be revealed. This is particularly advantageous to the husband since

secrecy disguises his infertility and enables him to evade questions about the legal relationship between him and the 'child'. Equally secrecy allows the donor to evade his legal responsibilities to the 'child'. Snowden and Mitchell argue,

It is this deception connected with paternity which is the source of all secrecy surrounding the practice of AID. It could be said that keeping the child in ignorance of its genetic origin, ensuring the donor remains anonymous, undertaking the AID process in a clandestine atmosphere and even keeping the fact of AID from friends, neighbours and relatives stem from this fundamental issue of paternity. (1981:94)

It is clear to Snowden and Mitchell that, whatever is claimed to the contrary, the child is not paramount in the considerations surrounding AID, since if s/he were, 'the whole issue of keeping that child in ignorance of his or her true origins and of setting up procedures to ensure that such ignorance is maintained needs to be examined very carefully' (1981:79). They are clear that the secrecy surrounding AID needs to be condemned not only because the costs of maintaining it are very high but also because it goes against the values of integrity, honesty and truth. As such it is a threat to 'normal family life':

we have found it necessary to indicate that in so far as AID may be a threat to normal families and may arouse uncertainty in children's minds about their origins, and most particularly in so far as it usually does entail secrecy, it is undermining the social values of openness, honesty and truthfulness on which social institutions and the institutional behaviour we know as family life rests. (1981:121)

They are careful however to distinguish between the concepts of secrecy, confidentiality and anonymity. Secrecy is an inherent part of AID, pervading all familial and professional relationships and as such should be condemned; confidentiality is a wholly appropriate degree of privacy between for example a practitioner and an AID couple and should be protected; anonymity usually refers to the donor and is thought by

Snowden and Mitchell probably to be necessary. Therefore their overall conclusion is that AID requires regulation through public awareness and formal social policy, and the issue of secrecy and anonymity should be discussed:

Those outside the medical profession have not only a right but a duty to debate the issues of anonymity and secrecy which affect society as a whole. (1981:123)

These themes (AID, the family and marriage, secrecy, the need for regulation) are explored further through the findings of the research project reported in 'Artificial Reproduction' (1983), the first and most extensive non-clinical follow-up study of AID families, and form the basis of practical advice given to couples considering AID in 'The Gift of a Child' (1984). Material from 'Artificial Reproduction' is presented in Chapter 2 of this thesis.

This body of work has been highly influential on my current interests in a variety of ways, but most importantly in the legitimization it provides for a study concerned with one aspect of the secrecy they describe. Thus my work on the management of information about the child's origins can perhaps be seen as one attempt to extend the debate on secrecy and anonymity, and to do so within the wider social context as exemplified by Snowden, Mitchell and Snowden's work. However, not all the ideas and analysis within that body of work can be accepted uncritically and there is one particular aspect which perhaps needs to be questioned. This is their use of the concept of the family. Their work is permeated with notions of the normal family such as 'the threat AID may entail for normal family life' (1981:111) and AID as the 'possibility of dispensing with the family as we know it today' (1981:117) and concern regarding the effect AID may 'have on children in normal families'

(1981:119). This view of the 'normal family' bound together by values of trust and integrity influences their view of AID, but does not take into account more recent theories of 'the family'. They are perhaps less than critical in their deployment of those values and this perhaps weakens their analysis. They have this in common with Humphrey and Humphrey's otherwise excellent book on surrogate parenthood (1988).

An example of a sociological piece of work on secrecy in the new reproductive technologies which has a more phenomenological and less functionalist approach to the family is the work by Achilles (1986). Her analysis is based on fifty interviews with different categories of people involved with AID: female and male recipients, donors, offspring and doctors. Originally she wanted to investigate the impact of AID on family structure but found emerging from her interviews a persistent concern with the significance of biological ties in family relationships. Her analysis presents three major themes of anonymity, secrecy and the redefinition of parenthood. She argues that anonymity is necessary to protect the AID family from the pull of biological ties and that secrecy is used to disguise the existence of non-biological ties. Both serve to indicate the cultural importance of those ties. She argues too that social parenting should be valued culturally despite the absence of such ties, but the use of anonymity and secrecy prohibits the cultural recognition of such parenting forms. However though she too seeks an analytical outcome based on her own values, she is keen to place her analysis within a wider cultural understanding, which means that secrecy about origins is related to the place of gamete donation in a wider society which displays a certain range of ideas about 'the family'.

From this review of the literature it is possible to show that the topic of information about the 'child's' origins is seen by many commentators as being of practical and theoretical concern. It is not one however that has been extensively researched and indeed it is seen by some as being an isolated aspect of the deployment of the new technologies. Secrecy has been explained by the need to protect the 'child', the donor, the husband and as an expression of the significance of biological ties. Openness has been advocated to benefit the 'child', the non-biologically related family and the family and society in general. The literature suggests it is a topic which invites advocacy, perhaps rather more so than analysis, though Daniels (1988), Snowden et al (1981; 1983) and Achilles (1986) manage to combine both effectively. There is a tendency however, amongst those advocating greater openness to take truth as an unquestioned 'good' and secrecy as probably 'bad', whereas Bok (1982:xv) suggests the use of secrecy will tend to have both good and bad aspects. Secrecy can be viewed in a variety of different ways: terms such as deception, privacy, lying, anonymity, denial, confidentiality, conspiracy, furtive, falsification have all been used as synonyms and a degree of sensitivity in language use is clearly necessary.

The literature is dominated by artificial insemination by donor which is a severe limitation given the rapid advances and hence likely increase in the use of other possibilities. Both Annas (1980) and Snowden (1982/3) question the usefulness of AID as a model for regulating other procedures given the as yet unresolved problems already identified in that procedure. The explanations given for secrecy and the grounds for advocating openness in AID will not necessarily extend to the other procedures. The literature also lacks extensive studies of the policy

issues in the reproductive technologies and although Robert Blank's work on the development of public policy in the USA is probably the most developed, he has nothing to say on the origins issue (1984). Similarly Simons (1984) implies that identity issues will be a minor problem in public policy terms. Finally, most of the pieces here lack the perspective of the child or adult conceived through these procedures: the lack of that voice is yet another indication of the pervasiveness of secrecy in AID.

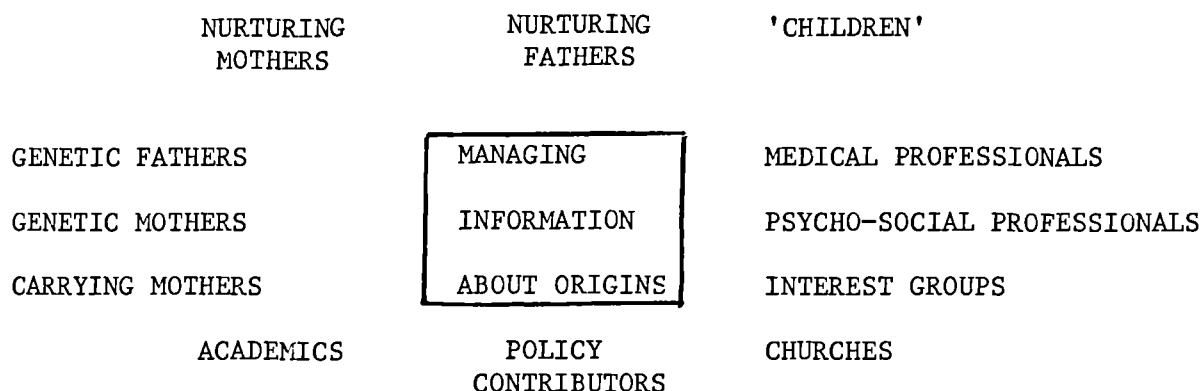
The approach of this study

Much of what has been written hitherto points to the similarities and differences between adoption and the new reproductive technologies on the management of information about the 'child's' origins. In both cases origins have been couched in secrecy and in both cases an expression of interest in those origins, particularly by the 'child' has until recently been deemed inappropriate or troublesome.¹⁸ However, unlike the second group of writers in the literature review I cannot accept uncritically a closer parallel between the origins issue in adoption and that in the reproductive technologies. This is partly because that parallel depends on the view that the origins issue in adoption has been resolved (which the workings of section 26, ironically, indicate not to be the case). It is also partly because their explanation, as to how and why the parallel works, confines our understanding both of adoption and the reproductive technologies to the personal experiences of individuals and families, without reference to the wider social context.

However, the prescriptions which arose from our own work¹⁹ in adoption have been highly influential to the conduct of this current

study, especially as the work of Achilles (1986) and Snowden et al (1981) confirm that the sentiments behind those prescriptions can appropriately transfer to the arena of the reproductive technologies. In brief, those prescriptions indicated that in extending my interest in the origins issue to the reproductive technologies, it was necessary not to take the secrecy for granted but to realise that it had a history, an investigation of which could reveal its place in a set of wider cultural issues. The same could apply to the concept of origins. Neither is a concept of unitary meaning and both have to be interrogated for what they reveal about deeply-embedded, often invisible, social norms. This in turn implied a need to question explanations which depicted secrecy and origins problems as residing solely within the internal aspects of family life. Two problems are evident with those explanations: first, they tend to be based on presumptions about interactions within families without any actual empirical investigations; second, they tend to result in individualistic explanations, attributing the root of the problem to pathological conditions such as 'an identity crisis' without reference to the wider social context.

Ideally therefore an investigation of the origins issue in the new reproductive technologies should combine an empirical investigation of those families and individuals created by third party conceptions with an investigation of the broader professional, legal and administrative practices which together create the social context in which the question of origins arises and by which it is defined. The multiple perspectives on the origins issue could include the following:



Unfortunately the limits of a thesis prevent the full picture being investigated so it seemed appropriate to concentrate on the social policy side since that is the area which has been most neglected hitherto. It is for this reason that I decided to concentrate on the work of the Warnock Committee to illustrate, empirically, the more abstract analyses that I shall also be proposing. The members of the committee are part of, and in turn, help to create, the structures by which certain facts about the origins of people created through third party conceptions will be rendered knowable and certain facts rendered unknowable. I decided therefore to try to analyse in detail, via their report and a series of face-to-face interviews, their reasons for reaching such decisions. By investigating what, for them, are the important factors it should be possible to start to identify the repertoire of considerations which they have brought to their task, thus shedding a little more light on the complexities of the origins issues. In the next chapter therefore I seek to place the findings of the Warnock Committee in a historical perspective, before analysing their recommendations in greater detail in the third chapter. Chapters 4 and 5 contain an analysis of the interviews with the committee members; interviews which themselves are

directed towards testing my own explanations up to that point. The final chapter returns to a broader consideration of what can be learnt from the necessarily narrow focus of this study.

Notes

- 1 One of the problems for people conceived or brought up in unusual circumstances is that they are constantly referred to as children. I shall elaborate on this point later in the chapter, but meanwhile I shall follow the convention of using inverted commas when the word child does not necessarily mean a person below the age of 18.
- 2 Detailed accounts of the causes and experiences of infertility are becoming more common. Two clear accounts with some sociological insight are provided by Pfeffer and Woollett (1983) and Lasker and Borg (1989).
- 3 Similarly, Snowden has stated a preference for the term 'external human fertilisation' (1982/3:5) to emphasize the aspect he regards as important i.e. the role of human beings in these procedures.
- 4 Fitzgerald (1975) records the following synonyms for artificial insemination by donor: heterologous insemination, semi-adoption, test-tube babies, therapeutic donor insemination, physiological artificial insemination, artificial fertilisation, artificial ficundation (sic), eutelegensis (sic), cross-insemination, donor transsemination, exsemination, non-spousal semination, induced pregnancy and instrumental impregnation. Each description directs the attention to a specific aspect and hence none of course is neutral. A more recent variation has been donor insemination, or DI, to avoid confusion with AIDS.
- 5 It is very noticeable that those involved in IVF, either as doctors, parents, 'children' or scientists, are known by name, whereas those involved in AID are not.
- 6 Another form can occur when the donor woman fertilises the egg in vivo and then has her uterus 'washed out' prior to implantation. It is difficult to get estimates of the use of any forms of egg or embryo donation.
- 7 The appropriateness of calling the woman who carries and gives birth to the child a 'surrogate' has been questioned, though this is a debate which illuminates by its existence rather than by any resolution. See Morgan (1989:56-60).
- 8 Other technologies such as GIFT (gamete intra fallopian transfer) and TEST (tubal embryo stage transfer) have developed and extend the possibilities of families being created through third party conceptions.
- 9 Snowden et al point out that the term 'complete mother' is not meant to refer to the quality of mothering but merely to someone who fulfills all three roles (1983:33). However the proliferation of words to describe the different types of parent suggests again that none of this language is neutral. For example, genetic parents can also be biological, natural, original, first, donor parents; nurturing parents can also be social, legal, adoptive, rearing, second parents. Both sets have been described as: 'moral parents', 'real parents'.

- 10 Is there for example a difference between parents being secretive about a child's origins, whatever these are, and a state sanctioning a formally devised, systematically applied, publicly approved policy of secrecy?
- 11 Adult adoptees in Scotland have had the right of access to their original birth records since adoption was first legalised in Scotland in 1930. Access in Northern Ireland was granted only in 1989.
- 12 In another context, Leifer (1980:223) cites Rossi as substituting the word 'transition' for 'crisis', arguing that the latter term dichotomizes normality and pathology.
- 13 See, for example, Haimés and Timms, 1983; 1985; Abramson, 1984; Haimés, 1987; Humphrey and Humphrey, 1988.
- 14 These points are usually overlooked in discussions on the number of adult adoptees who seek access to their birth records, which usually comments on the few who do so. There are however several issues about how the percentages are calculated as well as questions to be asked about those who might be interested in this information but who do not appear on the records for a variety of reasons.
- 15 Many other writers express concern but usually only in passing. See for example, Barbara Eck Menning (1982); Walters and Singer, who are unusual in suggesting a 'child' should have access to information about the surrogate mother (1982:139); Grobstein (1981), Raeburn (1988) and Murray (1988).
- 16 This includes writers such as Brandon and Warner (1977), McWhinnie (1982; 1986), Lusk (1988), Speirs (1988), Triseliotis (1988), Stone (1988). Earlier writers such as Fletcher (1955) and Reilly (1977) picked up on some similarities: Fletcher saw AID as being 'exactly parallel' to adoption and argued for the necessity of telling the AID 'child' about his/her origins (1955:126); Reilly noted that egg donation might give rise to similarities with adoption in terms of access to information but firmly rejected access in sperm donation (1977:202-217).
- 17 The three major publications are Snowden and Mitchell (1981); Snowden, Mitchell and Snowden (1983); Snowden and Snowden (1984). This work has been further refined and adapted to different audiences in various other articles and presentations; see, for example, Snowden, R (1982; 1982/3; 1988; 1989) and Mitchell (1982; 1984; 1986). It is possible to speculate that this body of work has been of increasing influence through the 1980s as more people become aware of the issues but as few other sociologists develop later research.
- 18 This points out the inappropriateness of comparing interest in origins in the field of adoption or third party conceptions to the more general area of family history, other than with reference to the broad notion of 'lineage consciousness' (on the latter for example see Lindahl and Back, 1987; Erben, 1988; Greer, 1989). Both groups may have difficulty acquiring information; for the latter sheer persistence may be the answer, but for the former, persistence runs the risk of being labelled pathology. What might appear to be the same inquiry operates in an entirely different social context.
- 19 And, to reiterate, that of Kirk (1981) and Abramson (1984).

CHAPTER 2

MANAGING ORIGINS: VARIATIONS ON A THEME

Introduction

My focus in this thesis is the Warnock Committee's management of information concerning the origins of the 'child' born from a third party conception. However, the history of third party conceptions using the new reproductive technologies shows that many others have also had to contend with this issue so it would be misleading to analyse that committee as if it were an isolated event. Therefore in this chapter I situate the work of the Warnock Committee within the broad range of other attempts to resolve the problem of origins information, in order to draw comparisons between the various solutions proffered. I am particularly interested in seeing if any patterns can be detected amongst the range of solutions arrived at and, if such patterns do exist, identifying that to which the Warnock Committee recommendations belong.

The question of how best to manage information about the 'child's' origins is a very real, concrete problem for at least two groups in society: those with a responsibility for contributing to the formulation of national policy and those with a responsibility as the nurturing parents of such 'children'. In order to gain a full picture of the different solutions arrived at, both need to be considered. Therefore this chapter is divided into two broad sections: the first examines the more formal, policy-oriented management of origins information; the second examines the less formal, though no less important, family-oriented management of origins information. Overall this will

amount to a fairly diverse set of perspectives but since they all have in common the need to grapple with the problem either on a day-to-day basis as nurturing parents or on the basis of being a contributor to policy-making, that diversity can only help to increase our understanding of the problem in general and the Warnock Committee's handling of it in particular.

Managing through policy

I have deliberately chosen a rather loose label for this section since the material considered here ranges from government-appointed committees of inquiry, to more narrowly focused theological and clinical committees, to parliamentary debates. Nonetheless each has either made a formal contribution to government policy or been influential on formal policy development, so each provides a useful comparison to the report of the Warnock Committee.

In order to make that comparison as effective as possible I have structured this section in historical terms, first reviewing the policy-oriented work which pre-dated the Warnock Report, then reviewing the Warnock Report itself, then examining material which has been published since the Warnock Report. I have also included material from overseas reports since this both extends the range of the comparison and reflects the international nature of many of the developments in the new reproductive technologies. I shall describe, briefly, the background of each example, the extent and general content of the discussion on the new reproductive technologies and then what each says specifically about the management of information about the 'child's' origins.

(i) Pre-Warnock Report (1945-1984)

I have dated this review from 1945 since that represents the emergence of public awareness, in the UK, of the issues surrounding artificial insemination by donor. This awareness had been stimulated by the publication of a report in the British Medical Journal of current work on AID (Barton et al, 1945). The attention this received provoked calls for public regulation of the practice and was influential in the setting up of the first committee considered below (Snowden and Mitchell, 1981:15).

In discussions of policy developments preceding the Warnock Report, three earlier reports are frequently cited;¹ these have become known as: (i) the report of the Archbishop of Canterbury's Commission, published in 1948;² (ii) the Feversham Report, published in 1960;³ and (iii) the Peel Report, published in 1973.⁴ Often only the conclusions of these reports are cited, *usually to demonstrate a change* in attitude to AID, since the first report recommended that AID be made a criminal offence, the second recommended that AID be neither criminalised nor given any support and the third suggested that AID could be made available on the National Health Service. However, this hides the detailed reasoning behind these conclusions and means that the framework of understanding in which these committees placed AID is also missing, though this is needed to gain a clearer sense of why certain conclusions were reached. Therefore, in studying the work of these committees I shall try to place the focus of my interests, the management of origins information, in that wider framework.

The Archbishop of Canterbury's Commission was appointed in December 1945 because though only used on a 'very small scale' in Britain, AID had

attracted public attention through the Barton article. The Archbishop considered 'a careful enquiry' to be 'most desirable ... at this stage', implying that he anticipated (though not, as we shall see, welcomed) its growth. The commission considered both AIH and AID from historical, psychological, sociological, eugenic, legal and theological aspects. The commission discovered that two questions had dominated doctors' early discussions about the appropriateness or otherwise of providing AID: the first had been the necessity for masturbation

The second, and still unsettled, question concerns the secrecy by which all parties to the transaction hold themselves bound. It is not (we are informed) positively required of a patient that in no circumstances at all will she, or her husband divulge to the child the unusual mode of his conception; but the risks of so doing are emphasised. (1948:15)⁵

The commission shared this concern, being worried about the effect on the 'child' of knowing of his/her method of conception but at the same time expressing uneasiness about the use of secrecy as a solution to this.

The report said about telling the 'child':

With the AID child there are, in this respect, manifest difficulties. The necessary explanations might inflict severe psychological injury and increase insecurity. (1948:26-7)

Not the least of these was the stigma of illegitimacy. On the other hand the commission also questioned the attitude of doctors and parents who thought that, since family life appeared settled and 'the episode of insemination soon becomes unimportant', the 'child' would 'not need to be told of his origins' (1948:27). However, in trying to substantiate such claims and to assess the sociological implications of AID, the commission soon discovered that, 'the element of secrecy involved prohibits observation on scientific lines and the publication of findings' (1948:29). This led them to express concern about the wider effects of

secrecy upon the family and upon society:

The concealment of the child's true parentage, the false registration demanded and the atmosphere of secrecy that surrounds facts which, in the normal family, are joyfully acknowledged and made public, must have social as well as moral consequences tending to undermine the traditional status of the family group. (1948:31)

They argued that whilst the family had undergone all sorts of changes and divisions in the last 200 years,

What remains to unite them is something which cannot be destroyed by the changing patterns of society - their physical kinship Once the physical basis of these bonds is in doubt and the family's essential kinship called in question, there can be no certainty that the moral obligations enacted upon it will survive unshaken. (1948:31)

This was discussed at some length; three pages further on:

The insistence on secrecy is to be pondered. If it is of such fundamental importance that certain facts shall be concealed, it is prudent (to say no more) to subject those facts to special and searching scrutiny. It is axiomatic for the champions of AID that secrecy shall be absolute and continuous; and this, in a matter which touches the very springs of physical life, the family's pride in its stock and the community's concern for its future genetic constitution, is contrary to the established and unvarying tradition of every known society. (1948:34-5)

'Fictional barriers' would be raised between individuals who could not marry because they assumed themselves to be related. The breadth of deception would have far-reaching consequences since, the commission argued, the social and legal system is based on the principle 'that an individual is a member of a family'. In this respect, the law should prevent, not facilitate fraud and deception. Therefore, this secrecy, plus the two other major legal problems associated with AID, adultery and illegitimacy, were enough for the legal experts on the commission to conclude that the practice should be criminalised. It was a view with which all but one of the members concurred. The commission's overall conclusion was:

AID involves a breach of marriage. It violates the exclusive union set up by husband and wife. It defrauds the child begotten and deceives both his putative kinsmen and society at large. For both donor and recipient the sexual act loses its personal character and becomes a mere transaction. For the child there must always be the risk of disclosure, deliberate or unintended, of the circumstances of his conception. We therefore judge artificial insemination with donated semen to be wrong in principle and contrary to Christian standards. (1948:58)

For the commission therefore AID was a damaging way to be conceived; a view shared by the practitioners at the time, according to Barton (1945). However, the commission and practitioners differed as to the solution: the latter saw secrecy as a device to protect the 'child' and family, whereas the commission felt secrecy only compounded the difficulties and was itself the strongest indicator of the undesirability of the practice. I have quoted extensively from the report to emphasize the magnitude of the commission's concern with the management of information about the 'child's' origins; this was less central in subsequent reports, as will be seen by the rest of this chapter.

The Feversham Report (1960). The call for the criminalisation of AID went unheeded and the practice continued. It gained further publicity after a judgement in 1958, (in the case of *MacLennan v MacLennan*), that the use of AID did not constitute adultery. Since this went against the majority view of the previous commission, the archbishop felt compelled to comment publicly on the judgement and the matter was debated in the House of Lords in February 1958. At the end of that debate the Lord Chancellor announced that a committee of inquiry into human artificial insemination would be appointed under the chairmanship of the Earl of Feversham. The terms of reference for the committee were to consider whether the interests of individuals and society warranted any changes in the law on artificial insemination. The committee produced a detailed

report on current practice in AIH and AID, examining the latter from the angle of the married couple, the child, the donor, the medical practitioner and finally society. The committee then debated whether AID should be prohibited, or at least regulated in some way. Its conclusion was that regulation would only give the impression that there was an acceptable way to practice AID and an unacceptable way, whereas the view of the members was that AID simply should not be encouraged at all. Prohibition, on the other hand, was seen as an excessive measure for a practice that they hoped would disappear.

On the management of information about the 'child's' origins, the committee's review of current practice showed that the anonymity of the donor was still maintained (1960:11), that follow-up studies to assess the outcomes of AID were still discouraged (1960:16) and that births were still registered under the husband's name (1960:28-9): all points which had been commented on by the 1948 investigation but had not changed. When considering the consequences for the 'child' their view was that to be conceived in this way could only be considered a 'handicap'. This was compounded by uncertainties about what was inherited from 'an unknown third person' and the likelihood of damaged family relationships through the nurturing parents suppressing the truth about the 'child's' conception (1960:43-44). Under a section entitled "The Effect on the Child of Hearing of his Origin", the committee suggested difficulties would arise from the 'child' learning (a) that his/her 'parents' had deceived him/her, particularly if s/he found out by accident; (b) that s/he was illegitimate and (c) that s/he was conceived 'through a test-tube, a method of conception which is at the present time repugnant to a considerable section of the community' (1960:45). On the other hand

the committee had to eliminate the effect of accidental discovery and deal with the question of 'whether the child should be told':

It has been put to us that every child has a right to know who his real father is. We think that there are occasionally circumstances, quite unconnected with AID, where the truth may be very harmful to a child and where on that account his right to know cannot be accepted. It seems to us that those who argue that a child is entitled as of right to know that he is of AID origin, even though the knowledge may do him great harm, are really arguing against the continuance of AID rather than in favour of telling the child. A more cogent argument is that the consequences ... of his finding out the truth by accident may be so harmful to him that it is preferable deliberately to inform him. (1960:45)

The committee concluded:

In other cases, while fully appreciating the strength of the arguments in favour of informing the child of his origin, we are not convinced that this course would as a rule be in the child's best interests. The effect on the child might be, broadly speaking, the same as if he were to hear of the matter by accident, except that he would know that his "parents" had not intended that he should be permanently deceived. No doubt if the relationship between him, his mother and her husband were a happy one and the explanation of his origin was managed with tact and understanding, the emotional impact of the news would be considerably lessened. But, whatever the circumstances of their revelation, the facts could scarcely be other than disturbing. (1960:46)

This dilemma merely emphasized for the committee the problems of AID and led them to conclude 'that in the interests of the child alone, apart from other reasons discussed later, the practice should be discouraged' (1960:46). The reasoning of the Feversham Committee was similar to that of the Archbishop's commission: that the 'permanent deception of a considerable number of people' (1960:67), including the 'child', would damage families and society, but also that the revelation of an AID conception was likely to damage the 'child' because of the specific problem of illegitimacy⁶ and the more nebulous problem of a negative reaction from wider sectors of the community. Therefore the only solution would be not to use AID at all. The Feversham Committee hoped

that disclosing the facts about AID would be enough to ensure its disappearance, but this was not the case.

The Peel Report (1973) was produced by a panel set up in 1971 by the British Medical Association in response to an increasing number of inquiries for information about AID.⁷ Their remit was to look into the medical aspects of human artificial insemination, concentrating on AID which was seen as having ethical and legal problems not evident in AIH. The report had the following sections: the legal consequences of AID relating to legitimacy and the registration of births; the law of negligence; public attitudes; the demand for AID; the availability of AID; future practice; selection of donors; storage of semen; confidentiality; follow-up; conclusions and recommendations. As might be surmised from those headings, the panel was generally in favour of AID and recommended that it should be available on the National Health Service, subject to certain provisions to ensure good quality practice. They reached this decision even though they acknowledged that AID was "still not widely accepted" by medical practitioners (1973:4). It is interesting to note that the panel had very little to say about how information relating to the 'child's' origins should be handled, especially considering the space devoted to that issue in the two previous reports. Their views can however be gleaned from indirect references, such as in the following:

Accredited NHS centres for AID, and private practitioners, would be required to apply to the banks for a specimen giving details of the prospective mother and her husband so that matching of racial type and blood groups with the donor could be undertaken. The present state of medical knowledge does not permit accurate matching of other physical characteristics and the panel suggest that the maintenance of comprehensive records of children born as a result of AID would be a valuable contribution to genetic research. In order to preserve anonymity it would be necessary for information about donors sent by

the frozen-semen banks to accredited centres or to private practitioners to be in coded form, but donors would be registered with the frozen-semen banks for a specified period and the banks would maintain complete records of their identity and medical history. (1973:5)

That is, donor anonymity was assumed and ensured by an elaborate coding system; information would only be made available for genetic research. Interestingly, the panel favoured follow-up studies of AID families, despite being urged to reject these. They were interested in finding out about the impact of AID on families and in long-term genetic effects. However, there was no mention in the report of whether they felt the 'child' should be told of his/her conception, nor even of the general secrecy surrounding AID about which the other reports had shown so much concern.

To sum up this brief review of major, pre-Warnock reports in Britain we can see that the Archbishop's Commission and the Feversham Committee along with Barton (1945), all felt some distaste for AID conceptions. Taking this distaste as a reflection of wider community sentiments,⁸ they also felt that it would be damaging for a 'child' to be identified as having been conceived in this way. However, whilst the clinicians expressed the view, explicitly in Barton (1945:41) and implicitly in the Peel Report, that the 'child's' origins should be kept secret (in order to avoid such damage whilst allowing AID to continue), the Archbishop's Commission and the Feversham Committee felt that such secrecy was itself harmful, to families and to society, and was therefore yet further reason for abandoning the practice of AID altogether.

Therefore, to return to my earlier point in the introduction to this section, it is somewhat misleading to suggest⁹ that the conclusions

reached in these reports represent a progression in the degree of acceptability of AID. A more detailed examination suggests that each viewed AID somewhat uneasily but that they differed in how they felt that uneasiness should best be managed. From this perspective the Peel Report can be considered an implicit elaboration of the principles expressed in Barton's article, whereas the Archbishop's Commission and the Feversham Committee took the opposite view.

Whilst these reports provide the immediate background to the discussions of the Warnock Committee in terms of UK policy, it is illuminating to review developments elsewhere. Geographical differences are significant since the ramifications of the reproductive technologies are not necessarily confined by national boundaries: other countries have to resolve a very similar set of issues, one of which of course is that of handling information about a 'child's' origins (see for example, Donnelley, 1987). A comparison of practice is both informative about the range of potential solutions, and provides a means through which practice in the UK can be more critically viewed. Three major¹⁰ overseas reports were published prior to the Warnock Report: the American Department of Health, Education and Welfare (HEW, 1979)¹¹, the Australian Waller Committee reports (1982-84)¹² and the Swedish Insemination Committee Report (1983).¹³

An examination of these reports shows a shift not just from the UK to elsewhere, but also from the particular problems of AID to the wider concerns of the new reproductive technologies in general. The HEW report (1979) was one of the earliest to tackle the potential problems of IVF

and embryo transfer, for example. However, though wide-ranging and perceptive, it had little to say about the management of information about the 'child's' origins. In contrast, the Australian Waller Committee apparently saw this as very important, Spallone argues,

The Waller Committee is not so sure about strict anonymity. They feel a less secretive approach will prove preferable for the child, both psychologically and for better medical records and follow-up studies. Also, they recognise a child's 'right to know' her or his genetic parents. (1987:221)

In other words, the procedure of AID was accepted and efforts were then directed towards improving the practice. This report was also unusual in the regard they gave to the donor's position. They suggested that, as well as non-identifying information about the donor being given to the recipient couple (Recommendation 620), equally donors should be offered non-indentifying information about the recipients (Rec 621). Also, if the donor agrees, s/he should be informed if any children result from their gametes (Rec 622). In such cases complete identifying information about the donor is then stored in a central register. Finally there is the recommendation that,

the use of known donors ... in IVF programmes should be permitted, where both partners request it. Special counselling should be provided for the donors and the couple. (Rec 618)

The Waller Report is a reminder that interest in origins information is not restricted to the 'child' alone but can extend to donors as well. However, it is not clear from the available sources just how explicit the committee's consideration of the 'child's' perspective was, whereas the impact of an AID conception on the 'child' was central to the concerns of the Swedish committee. Their report included a lengthy section on 'The child's right to know his/her origin' which contrasted the secrecy of AID to the openness of adoption (1983:42/9-16). The committee debated how

much the 'child' should be told about his/her means of conception and about the natural father; how much information should be kept on file about the donor and whether there should be any contact between the 'child' and the donor. They concluded that AID parents should tell the 'child',

as early as it may be found possible and suitable and thereafter recurrently and increasingly more in depth - about how the child was conceived. The committee does not find it suitable that this principle be laid down by legislation. It should instead be incumbent on all those ... who are in contact with AID parents to emphasize the importance of this openness to the child. (1983:42/12)

'Openness' was to include giving identifying information about the donor to the 'child' (when adolescent or older) if a need for such information was demonstrated, on application to a welfare agency. The committee argued that,

The basic consideration underlying the Committee's recommendations on artificial inseminations is the best interests of the child. If AID is considered from the viewpoint of the prospective child, there are weighty reasons in favour of a decision - despite the risk that in an initial stage the activity would decrease in hospitals - to demand that only such sperm donors are used who do not oppose that their identity may subsequently be disclosed to the child. (sic) (1983:42/15).

This would 'bring about a more open attitude to AID', secrecy would no longer be necessary and the number of sperm donors would increase.¹⁴

One clinical member of the committee disagreed with this recommendation on the grounds that,

It is not scientifically verified that the analogy with adoptive children is relevant. To grant the child, under these circumstances, an unconditional right to be informed at adult age of the donor's identity is to go too far. This is to disregard the viewpoints of the childless couple. To most donors anonymity is a prerequisite condition for their cooperation. (1983:42/19)

Nevertheless, the recommendation of the majority became law on March 1st, 1985.¹⁵

These overseas reports reveal another aspect of the management of origins information: the secretive aspect of AID and other third party conceptions is regretted but rather than being seen as indicative of the problems of AID the secrecy becomes the problem, albeit one which is then broken down into its constituent elements (e.g. secrecy about using AID, anonymity of all parties) and resolved accordingly.

(ii) The Warnock Report (1984)

The Committee of Inquiry into Human Fertilisation and Embryology was set up in July 1982 in response to the publicity surrounding the birth of Louise Brown in 1978. The government decided a 'broadly based inquiry' was needed¹⁶ and gave the committee the following terms of reference:

To consider recent and potential developments in medicine and science related to human fertilisation and embryology; to consider what policies and safeguards should be applied, including consideration of the social, ethical and legal implications of these developments; and to make recommendations. (1984:4)

These recommendations should perhaps be seen as being in the direct line of descent from those of the Archbishop's Commission, the Feversham Committee and the Peel Report which the Warnock Report itself invokes as its antecedents, and as paralleling the recommendations of the overseas committees, about whose activities the Warnock Committee showed little awareness.

The committee's task was much larger than most of the reports considered so far, partly because the substantive topics were more numerous (infertility, AIH, AID, in vitro fertilisation, egg donation, embryo donation, surrogacy, freezing of gametes and embryos, research on human embryos, and future developments) but also because they were asked

to submit policy recommendations to government. Its membership was described as including doctors, lawyers and professionals experienced in family and child care and as representing a range of religious viewpoints.¹⁷ Overall, they tended to favour the developments in infertility treatment and in embryology, albeit within a regulatory framework.

On the specific issue of how knowledge about a 'child's' origins should be handled, the committee had a much wider set of possible situations to consider than many of its predecessors. Nonetheless they identified certain principles which applied to all possibilities; one of these was the principle of anonymity:

A number of the techniques we consider involves a third party outside the infertile couple In all cases, the question is whether it is better that a third party who helps a couple to overcome their infertility should be known to the couple or that the third party should remain anonymous. On rare occasions a brother or a sister may be the most appropriate person to give help, but our general view is that anonymity protects all parties not only from legal complications but also from emotional difficulties. We recommend that as a matter of good practice any third party donating gametes for infertility treatment should be unknown to the couple before, during and after the treatment, and equally the third party should not know the identity of the couple being helped. (1984:15)

There was no mention where the idea of anonymity had come from, though it is now clear from earlier reports that it was one of many practices in AID which were part of a more encompassing secrecy. The Warnock Report referred to this with some reservation:

AID has tended, partly because of the legal situation to be surrounded with secrecy. This secrecy amounts to more than a desire for confidentiality and privacy, for the couple may deceive their family and friends and often the child as well. Indeed couples who achieve pregnancy may come to look on their AID child as a true child of the marriage. However the sense that a secret exists may undermine the whole network of family relationships. AID children may feel obscurely that they are being deceived by their parents, that they are in some way different from their peers and that the men whom they regard as their fathers are not their real fathers. We

have little evidence on which to judge this. But it would seem probable that the impact on children of learning by accident that they were born as a result of AID would be harmful - just as it would be if they learned by accident that they were adopted or illegitimate. However, while we agree that it is wrong to deceive children about their origins, we regard this as an argument against current attitudes, not against AID in itself. (1984:21)

Therefore it is clear the committee distinguished between secrecy and anonymity in deciding the appropriate strategy for handling origins information. They recommended that the use of AID should not be kept secret from the 'child' and said that the importance of possessing genetic knowledge should be underlined by providing him/her with 'basic information about the donor's ethnic origin and genetic health', at the age of eighteen (1984:25). The provision of brief donor profiles might, they argued, have the additional benefits of reassuring the recipients and of indicating to the donor that 'he is valued for his own sake' (1984:24). This was not intended to compromise the donor's anonymity, which the committee felt was necessary to give him legal protection, to minimise his 'invasion' into the family and to ensure a supply of donors. However,

We recognise that one consequence of this provision would be that AID children, even if informed about the circumstances of their conception would never be entitled to know the identity of their genetic fathers. (1984:25)

This point was not elaborated. In addition, semen donors were to have no parental rights or duties towards the child, and husbands of the recipient women were to be allowed to register as the fathers on the birth certificate without committing a criminal offence.¹⁸

Non-identifying information about their conception would be available to AID children/adults through a central register, which would also function to ensure the number of donations from any one donor was limited to ten.

It would also be the means through which any follow-up studies of 'children' born through donation could be conducted (1984:77-78). These suggestions would, the committee hoped, encourage greater openness about and acceptance of AID and a change in attitude towards male infertility (1984:28).

Therefore, unlike the Feversham Committee and the Archbishop of Canterbury's Commission the Warnock Committee were clearly in favour of third party conceptions; consequently, openness was seen as a healthy attitude, anonymity as a necessary protection and both as encouragement for the practice to continue.

However, there was some erosion of the principle of anonymity in the case of egg donation:

Despite our desire to maintain the anonymity of the donor we recognise that because of the present practicalities of egg donation ... it may not always at present be possible to achieve this. An exception to the principle of anonymity would occur where the egg was donated by a sister or close friend. In such cases particularly careful counselling for all concerned would be necessary and thought would have to be given as to how and at what stage the child should be told about its parentage. (1984:37)

Therefore the concern for anonymity was not such that the committee felt compelled only to allow egg donation when anonymity could be guaranteed.

In these recommendations the Warnock Committee has more in common with its near-contemporaries in Australia and Sweden, in wishing to tackle the problem of secrecy, whilst retaining AID, than with its UK antecedents. However, the mechanisms differ, particularly between the Warnock Report and that from Sweden: one tackles secrecy through complete openness on identifying information, the other with partial openness, telling about the means of conception but retaining donor anonymity. It is therefore useful to see whether developments since these two reports

were published favour the UK or the Swedish policy.

(iii) Post-Warnock Report (1984-1989)

Since the publication of the Warnock Report there has been a proliferation of policy-related discussions on the new reproductive technologies. Most have been dominated by the 'larger' issues of embryology and surrogacy, but the management of origins information has been an important sub-theme and differences in the conclusions on this question are detectable. It is useful in reviewing these conclusions to continue to distinguish between the UK-based discussions, and those elsewhere, since the former have been dominated by reference to the Warnock Report (whether in agreement or not),¹⁹ whereas the latter have a wider variety of influences. In the UK much of the debate has been directed at influencing the legislation expected to emerge from the Warnock Report. The nature of that debate, and its conclusions so far, can be located first in the parliamentary discussions both on the Warnock Report (1984) and on the single issue of surrogacy (1985)²⁰, then in the Consultation Paper (1986)²¹ issued by the government to gain further advice and finally in the White Paper (1987)²² outlining likely legislation.

In the parliamentary debates interest in the management of origins information was expressed by a few persistent individuals, notably Alan Beith in the Commons and Lord Denning in the Lords. Denning was virulently opposed to the Warnock Report's principle of anonymity, for a variety of reasons: the fact that it allowed donors to 'escape' responsibility for their children, that it made AID possible in the first place and even that it allowed for posthumous AID. He repeated these

objections in the debates on the Surrogacy Arrangements Bill, though his concern then was with the falsification of the birth registers, a consequence of lying about the 'child's' genetic parentage in both AID and surrogacy.

In the Commons debate on the Warnock Report it was argued that the committee had neglected the 'child's' right to know his/her genetic heritage in favour of protecting the interests of the adults. One member criticised the inconsistency between the rights of adoptees and those of the AID 'child':

What is the reason for that in logic and morality? Perhaps it is a matter for the AID child that flowers in the refrigerator on Father's Day will have to be consolation enough.²³

Beith drew the same comparison between adoption and surrogacy, though he then had to prevent this argument being hijacked by those who had argued that such a fundamental 'need to know' could not be met in cases of surrogacy without damaging the 'child' and was therefore a case for banning surrogacy. This was of course very similar to the arguments used by the Archbishop's Commission and the Feversham Committee against AID.

In overall terms concern with handling the 'child's' origins figured more prominently in the parliamentary debates on the narrower issue of surrogacy than in the wider-ranging debates on the Warnock Report,²⁴ but in neither case was any resolution reached. In fact a lack of consensus was a feature of many discussions on the new reproductive technologies and it was for this reason that the government then issued a Consultation Paper, to gain a further measure of public opinion.

The Consultation Paper was divided into two sets of issues: those on which 'a broad measure of agreement was likely' and those where 'a significant division of opinion' might be expected (1986:2). The

handling of information about the 'child's' origins was included in the first section, though that is itself 'highly problematic' (Smart, 1987a:7). The paper accepted that the AID 'child' should know about his/her conception, but sought advice on how much s/he should be told about the donor (the context suggests that 'AID' is used here as a shorthand for egg and embryo donation too, but not surrogacy). The responses to the Warnock Report had apparently provided three possibilities: some argued that only ethnic origins and genetic health should be divulged, as recommended in the Report; others felt a pen picture of the donor's social characteristics and family background should be provided; a third group argued for access to identifying information, as was available to adult adoptees. The paper said there had been little support for the Warnock Report suggestion of marking the 'child's' birth certificate 'by donation' since this was seen as an infringement of privacy, but others had apparently shared Lord Denning's wish to protect the integrity of the birth register, by calling for a central register of AID births. The paper also cited 'most' medical bodies as wanting to preserve donor anonymity since it was thought (though this was unsubstantiated) that Sweden had lost a number of donors since the introduction of the identifying legislation. The government therefore sought advice on establishing a registration system for births from gamete donations which would satisfy three (unsubstantiated) requirements: (i) the 'child's' desire for information; (ii) the family's need for privacy; (iii) the donor's wish for anonymity.

The White Paper (published November 1987) confirmed that 'most respondents to the consultation document' agreed that the 'children' should be told they were not 'genetically linked' to their social parents

and be given some information about their genetic parents (1987:14). However, it also cited further evidence from Sweden that an initial 'dramatic decline' in the number of donors after the identifying legislation had been passed, had then been followed by a recovery of numbers and a change in donor type, from young men to mature family-men with 'some experience in infertility within their immediate environment' (1987:14). The White Paper concluded that though the government had 'much sympathy' with 'children' wanting to seek out genetic parents, the differences between donation and adoption led them to the 'present view' that donors should remain anonymous. However,

Attitudes to the anonymity of donors ... may well change over time as happened with adoption. The Government therefore proposes to keep the position under review. The Bill will include powers to amend the categories of information to be made available to children born following donation, so that the possibility of granting access to identifying information in future remains open. Such a measure could be made retro-active (1987:14)

In many ways this statement was somewhat surprising, given the lack of publicly-declared support for the removal of anonymity. It remains unclear how such a statement 'got into' the White Paper.²⁵ Nonetheless it was defended as 'the government line' when the White Paper was debated in Parliament²⁶, despite reservations, expressed from all sides, about the appropriateness of such a recommendation. It therefore remains an open question whether such provisions will be allowed to pass into the act when a bill is eventually placed before Parliament. Meanwhile, elsewhere, other governments and committees were tackling the same set of issues.

It would be rash to claim mastery of all the international committees and their strategies for handling origins information.²⁷ However, probably the two most important published since the Warnock Report are

the American Fertility Society report (AFS, 1986)²⁸ and the Glover Report (1989)²⁹: I shall briefly review both these, to demonstrate the growing awareness of the complexity both of the origins issue and of the required solutions.

The American Fertility Society report shows that a careful disentangling of the various strands surrounding the origins issues is required. This committee systematically reviewed each type of third party conception in the light of its impact on the resultant 'child's' genetic lineage (1986:17-18). However, different presuppositions informed their view of each procedure. In the case of AID the committee noted 'there is a lack of information about whether secrecy is better for the child', whilst observing that access to identifying information in adoption is a burden on both adoptive parents and natural mothers. Their conclusion was that identifying information about sperm donors should be registered to curtail the risk of genetic damage, but should only be released to AID 'children' in (unspecified) 'extreme situations' (1986:37). In contrast to this, egg and embryo donation were primarily discussed in the light of the possible use of relatives and friends as donors. Like the Warnock Committee the AFS decided that anonymity, though desirable, should not be pursued to the exclusion of known donors, given the difficulty of recruiting egg donors. The committee commented on the lack of hard evidence on these matters, but in the case of AID, that was seen as grounds for retaining anonymity, whereas in egg donation it was seen as grounds for not objecting to known donors. No explanation was given for this distinction.

Yet further distinctions were drawn in the case of surrogacy, between the surrogate who gestated the embryo and the surrogate who donated an

egg as well. The AFS felt that knowledge about the former would have little effect on the 'child's' identity, because s/he would still be raised by his/her genetic parents, whereas knowledge about the latter would, as in any third party conception, 'blur' his/her genealogy and might prove 'bothersome' (1986:66). No conclusion was reached on the best policy in this case.

Thus, the AFS is similar to the Warnock Report in its generally cautious approach to the release of identifying information. However, the Glover Report (1989) directed at considering whether a shared policy on the new reproductive technologies in the European Commission was either needed or feasible, is generally more permissive in its recommendations. Its discussion on the management of origins information also centres on the anonymity of sperm donors. However, having rehearsed the by now familiar arguments, the committee concluded (though not in total agreement):

We suggest that the child's interests create a strong presumption in favour of openness, but with protection for the various parties involved. As in the Swedish model, the social parents should be protected from intrusion when the 'child' still is a child, and the donor should be protected from paternity claims. But, although we favour openness, this is a presumption rather than an absolute right. There is a case for adopting a Swedish type law for an experimental period, and seeing what happens to donor recruitment. If it slumps disastrously public appeals could be tried to counteract the effects of the new system. If none of this worked, there would then be a case for abandoning the experiment (1989:38. Emphasis in the original).

This is a position which combines openness about the donation and donor with attempts to retain the AID programme, though ultimately the balance favours the programme, rather than openness, on the grounds that,

it can be better for a child to be born without the right to know the biological father than for that child not to be born at all.
(1989:38)³⁰

This then is a stand somewhere between the policy of the Warnock Report and that of Sweden.

The Glover Committee shared the concerns of the AFS on the use of known donors in egg and embryo donations but concluded that the appropriate policy was to choose between either using unknown donors or being open with the 'child' about having used a friend or relative. They did not specify whether egg donors would be included in the access to information experiment. In surrogacy, the committee suggested there should be no further contact between the surrogate and 'child', once the baby had been given to the commissioning couple. Unlike their consideration of AID and egg donation there was no lengthy discussion about either the 'child's' access to identifying information or about the use of relatives or friends.

Thus the five years since the publication of the Warnock Report indicate that the principle of telling a 'child' about the means of his/her conception has been reasonably well established in policy circles but that the release of identifying information about the donor(s) is likely to be treated with caution still. Policies in the UK and elsewhere though are far from fixed yet, as governments and associated bodies try to get to grips with the diverse ramifications of the different types of third party conceptions.

Further policy developments should perhaps be regarded simply as a continuation of the quite marked changes in attitudes and emphasis which have been documented in this chapter so far. These changes have not just been in the actual technologies but also in how the 'problem of origins' has been defined (from being conceived by AID, to the secrecy surrounding

that conception, to the anonymity of donors, to protecting the practice and protecting donors, to deciding how to handle information about known donors) and then in what is judged to be the appropriate solution to that problem (from banning AID, to keeping AID secret, to breaking down the AID secrecy, to keeping donors anonymous, to identifying donors, to balancing the interests of 'child'/family/donors with each other and with the preservation of third party conceptions). In other words one of the themes in these changes has been that what in one context has been defined as 'the problem' has, in another context, been proffered as 'the solution'.

This review confirms the suggestion I made in Chapter 1 that, as with adoption,³¹ the concern with information about origins is not simply confined to individuals and their 'sense of identity' but is also expressed, defined and redefined at the level of the institutional, and thus the social, through state interest. However, what is also clear from this review is the extent to which the above concerns are imbued with assumptions about how the issue of origins is perceived and handled in that other institution, the family.³² Rather than rely on such assumptions it is important to review the available evidence to see if particular management strategies have developed within the family context and, if so, how these fit in with those already identified in the policy sphere.

Managing in the family

In this section I examine three family-related aspects of the management of origins information: first, how nurturing parents decide who should know what about their 'children's' origins; second, what the

'children' think about how their parents and others manage information about their origins and, finally, what the third parties do about managing their involvement in the origins of children who do not become members of their families. The material is presented in three separate sections since this reflects the divisions in the studies themselves, few of which are able, because of the secrecy involved, to bring all three perspectives together. Even so, it is the parental perspective which dominates since again secrecy hinders access to the other groups, particularly the 'children'. Also the discussion is dominated by reference to AID simply because it is the longest lasting and hence most researched third party procedure hitherto. Overall, therefore, the term 'managing in the family' refers to the management of origins information within, and with reference to, the family setting, rather than, for example, management by the family as a unit, working together.

(i) Nurturing Parents

There are two main sources which reveal the strategies of nurturing parents for handling origins information: a series of academic studies, and, in contrast, a set of accounts of personal experiences in the journal *Nack*, a publication of the National Association of the Childless (NAC). In reviewing the *Nack* articles I would not claim they are necessarily representative of all members' views nor indeed that NAC members are representative of all nurturing parents.³³ Nonetheless it is useful to see how a journal directed at, funded by, largely written by, adults unable to have children other than by adoption, fostering or the new reproductive technologies, actually discusses the issue of how to handle those 'children's' origins: how prominent a concern is it and what

views emerge?

The issue published in Winter 1982/3 was particularly interesting on this matter since it contained two feature articles, one by Robert Snowden commenting on the Warnock Committee and one by David Owens (a sociologist and a member of the NAC), presenting the results of a survey of members' views on AID. Snowden's article expressed concern that secrecy made it very difficult to acquire the information necessary to evaluate how AID was actually working. Thus secrecy was both against the interests of the service itself, and those of the 'child' and family. Snowden advocated telling the 'child' about the AID conception whilst maintaining the anonymity of the donor (Snowden, 1982/3). However, in sharp contrast to this, Owens' survey showed that female members overwhelmingly 'opted for secrecy'. This was broken down further: almost 85% felt that the knowledge of AID conception should be kept secret from the public at large; approximately 60% felt it should be kept secret from close relations; just over 50% felt that it should be kept secret from the 'child'. Owens also found that those respondents who had had or were having AID were more in favour of secrecy than others. His own view was, perhaps we should argue for allowing the parents the option of providing secrecy. (1982/3:9; emphasis in the original).

In the following issue of Nack, Jack Glatt, a physician, wrote in apparent response to Snowden,

Nack magazine, in the last issue, had an article on AID which attacked the 'secrecy' of AID. Yet it is this very secrecy and confidentiality which makes AID so attractive to many couples. It is THEIR pregnancy and THEIR child, and that is all that matters; there is nothing wrong with this secrecy and the sentiments expressed in that article belong in an ivory tower. (1983:9; emphasis in the original).

This was clearly a topic which troubled the journal, and in Autumn

1984 a three-way discussion was published, with views given by a sociologist (Owens, as above), a doctor (Robert Newill) and a member (anonymous). The three articles shared the same title, 'AID: A Lifelong Secret?'. Owens questioned the conclusion reached by Snowden et al (1983) on the need for 'complete honesty and openness' (and in doing so, slightly misrepresented their view which argued for continued donor anonymity), seeing this as an 'unreliable ideal' which neglected the 'understandable desire of parents that they and their children be neither perceived nor treated differently from others' (1984:13). Instead he argued for a more extensive use of counselling for AID parents to enable them to reach an informed decision on how best to handle information about the 'child's' origins. Their practice of covert deception could, he argued, be seen as a 'genuine concern for privacy' (1984:13). Newill said 'hundreds of couples' with whom he had discussed AID favoured secrecy because of their desire to appear to be a normal family (1984:14). The anonymous member who contributed the last of the three articles did not belong to the majority of the Owens sample who advocated secrecy, since in reviewing the arguments for and against telling the child, s/he concluded that s/he would find it impossible to live with the secret. S/he argued that reasons against telling the 'child' were adult-centred, whereas those for telling the 'child' were child-centred. S/he provided a script for telling the 'child' but said that to instruct the 'child' to keep the information secret was contrary to the idea of demystifying AID (1984:15). The author felt unable to decide whether 'telling' would include the donor's name and address. In the same issue Barbara Mostyn, Chairwoman of NAC, warned of the danger of members being seen as 'anti-child', only interested in acquiring a child and being less

concerned with the means, or the consequences. She was not explicit however as to whether she thought the 'child' should be told about his/her means of conception.

These exchanges took place during the deliberations of the Warnock Committee and just after their report was published; they are indicative therefore of the conflicting trends in thought during that period, between infertile couples, researchers and policy-makers.

The academic studies can be sub-divided to assist our understanding of couples' strategies on these matters. The first group comprises follow-up studies of people who have actually used these procedures (mostly AID, though); the second group are studies of people contemplating an involvement.

Probably the most widely-cited follow-up study of couples who have used AID was conducted by Snowden, Mitchell and Snowden (1983). They were able to explore with couples the use of secrecy in AID. The focus of the research was to investigate the wider social implications of a couple's private decision to use AID (1983:7). Interviews were conducted with two sets of couples: those who had kept in touch with the practitioners since first being inseminated and whose AID children were all over eighteen years of age and a second set who had received treatment in the period 1977-80 and whose children were therefore pre-school.³⁴ Couples were asked first if they maintained secrecy and if so, how much and why; then what the problems were of this; the pro's and con's of telling the wider family and friends and finally whether they would tell the 'child'. Thirty-three of the fifty seven younger couples had told no one outside of the medical profession; only two

couples had let it become widely known to their families, friends and neighbours. Forty-eight couples were certain they would not tell the 'child', three couples had decided they would tell the 'child', five were undecided; in the last couple the husband and wife disagreed (1983:94-5). These figures suggest that some children will grow up in ignorance though others around them, besides their parents, will know of their AID status. None of the ten older couples had told anyone else about the AID at the time of receiving treatment. However, in three of these families the four adult 'children' had in fact been told, in each case because the telling might resolve a problem that the 'child' was thought to have (1983:96-7). Another three individuals contacted the research team, having been told that they too were AID 'children'. All seven had been told in their late teens or twenties and none, according to the researchers, appear to have been damaged by this; three had had some suspicions already.

As the authors point out, it would appear therefore that maintaining secrecy was in fact a practical possibility for the majority of couples (assuming that the 'children' had not guessed or hidden their suspicions). However, many of these couples defined their actions as maintaining either privacy, or propriety about sexual matters rather than 'secrecy' (1983:103-4). The authors though suspected that the desire to protect the husband was the 'paramount reason' for secrecy (1983:107). On the other hand the investigators pointed out that over 40% of the couples had told someone, friends or families, about the AID, partly because of the awkwardness of lying and partly through a desire for some support, which in fact they all felt they received. Clearly there were benefits to secrecy (avoiding the illegitimacy tag; appearing as a normal

family) but the costs of lying, particularly the lack of support were high. The secrecy was most evident in the minutiae of everyday life, such as explaining the regularity of time off work, discussing the type of contraceptives preferred and so on.

Those younger couples who intended not to tell the 'child' felt there was no need, or that the information could either disturb or stigmatise him/her. Others felt it would be too difficult to explain or feared the 'child' would then tell everyone else. Yet others said there was little to tell since nothing was known about the donor. Again the authors saw this as a 'defensive denial of AID' aimed at protecting the social father, primarily (1983:117). They suggested that couples worked with a hierarchy of rights which a 'child' could only challenge as s/he became adult. Few of the couples could find reasons in favour of telling the 'child' other than if s/he was also found to be infertile or if there was a risk of accidental disclosure. Snowden and his colleagues however were clear that 'secrecy which surrounds AID is harmful and unnecessary' (1983:123) and argued that the experience of the older couples and of the people who had been told, indicated that families could survive any trauma associated with telling. Furthermore they argued that secrecy could only add to the stress inherent in AID, since it meant couples had no one to seek support from, other than each other.

However, the concerns expressed by Snowden et al are not shared by many other researchers, most of whom appear to be clinicians. For example, Farris and Garrison (1954) reported a much earlier study on couples who had already had one child by AID. These couples were asked why they chose to use AID rather than adopt and whether they would have a second AID child. No mention was made of the 'child's' position, nor of

secrecy as an issue, although a reason given for preferring AID was that it concealed infertility. Thus it is perhaps more accurate to say that secrecy then was assumed and was indeed seen as a beneficial aspect of AID. A more recent study by Iizuka and colleagues (1968), which is cited frequently to show that the physical and mental development of AID children is as good as or even better than, other children, is remarkable for making no mention of the problems of conducting follow-up studies, nor whether any of the fifty four children (the oldest of whom was eleven years of age) knew why they were being tested. The absence of any discussion of whether or not parents had told the children suggests that this study also assumed secrecy was practised, though that is only a speculative conclusion. The study by Langer et al is very similar in these respects (1969:237).

David and Avidan (1976) were interested in the clinical and psychological aspects of donor insemination and its effect on the subsequent family. They interviewed forty-four sterile Israeli couples about their marital relationships, their attitudes toward infertility, their feelings about AID in comparison with adoption and their attitudes towards the donor, the pregnancy and the physician. Couples were not asked about their intentions regarding the handling of their 'child's' origins but the assumption of at least some degree of secrecy is evident in the recommendation to ensure that donors shared a blood group with at least one of the parents, since children learn about blood types during first aid lessons in school. It is also evident in the authors' statement that,

The choice of AID by these patients is understandable, since the future parents felt more confident and united when no one knew the etiology of their infertility ... (1976:531-2)

Newill's review of two hundred couples does actually raise the question of 'deception' but says the couples themselves find this 'acceptable': he feels it is their responsibility to decide to tell the 'child' or not (1976:139). Milsom and Bergman endorse this view (1982:127).

Therefore most of these clinical follow-up studies, which pre-date Snowden et al (1983) show that both respondents and researchers share the assumption, or explicitly prefer, that the use of AID will be kept secret, especially from the 'child'. This in turn indicates just how radical Snowden and his colleagues were to question this secrecy. Alder (1984a) picks up on this contrast when reporting her retrospective study of twenty wives and seventeen husbands who had been treated at an infertility clinic. She asked explicitly whether they would tell the 'child' s/he had been conceived by AID: ten of the wives and fourteen of the husbands said they never would. Alder concluded,

Secrecy was obviously very important to these couples and calls for more openness by sociologists may well be met with resistance.
(1984a:196)³⁵

The discussions in Nack suggest she was right. However, Achilles' study reinforced Snowden et al's point about the cost of secrecy: four out of eleven AID mother's found adherence to secrecy about the conception to be isolating and full of painful reminders; seven found secrecy was not feasible and then had to decide who and what to tell. The unmarried AID mothers conversely found that openness about AID deflected ideas about, 'one-night stands' and had no negative effects on the children (1986:114).

These follow-up studies suggest couples have a strong predilection for secrecy, which might, however, waiver if the costs become too high, either for themselves or the 'child'. Comparing those who have experienced treatment and/or parenthood with those just contemplating

treatment, might help to clarify if in fact there are identifiable stages in couples' attitudes to secrecy. Clayton and Kovacs (1980) reported the findings of interviews with two hundred pre-treatment couples in Australia. These show similarities with previously cited studies, that is, 73% of couples did not intend to mention their involvement with the AID programme. Half of the remaining 27% regretted having talked about their involvement and intended to lie about the pregnancy, if one should occur, by claiming that the husband had been treated successfully. However, 'many couples' (the exact figure is not given) felt that they would have to tell the child to avoid a family life based on deception, though they struggled with what they would tell and when. Respondents in this study were also very interested in the donor and the authors report that 'most couples wanted more data on the donor than we were prepared to give' though they 'respected the need for donor anonymity' (1980:210). This suggests again that it is not only couples who practice secrecy.

A useful comparison with the Clayton and Kovacs study is provided by the writings of Humphrey and his colleagues. Much of their material is derived from their work as counsellors for the AID programme at St Georges Medical School, in London, which involves seeing couples twice, with a gap of three months between each meeting, prior to treatment proceeding (1983:11). They confirm two aspects of Snowden's work: the prevailing emphasis by couples on secrecy and the difficulty they have actually maintaining that secrecy (1984). This leads the authors to express concern about the likelihood of accidental disclosure to the child:

It is our experience that couples will sometimes blind themselves to the hazards of being open with selected others whilst insisting on a policy of saying nothing to their future child. (1988:143)

However the researchers argue that being open with the 'child' really means being prepared for a loss of privacy given a 'child's' general inability to keep secrets (though this is a clear example of seeing that 'child' always as a child). They ask, with obvious sympathy for the couple, 'why should they be expected not to care who knows?' (1988:143).

Overall, would-be or actual nurturing parents have a strong preference for keeping their involvement in third-party conceptions secret from both the resultant 'child' and wider family and friends. Some might come to feel that that strategy has a price, especially once the 'child' is born but, if so, the secrecy is only likely to be broken to friends or relatives, rather than the 'child'. There are signs that parents are becoming aware of criticisms of this 'deception' but they assert their right to decide the appropriate management of origins information themselves.

(ii) 'Children'

It is possible that the parents' strategies may soon be challenged since many of those born from AID are now fully adult, with families of their own. It is quite likely however that many do not know of their means of conception and there are very few accounts of their experiences to provide any insight into their views on the management of information about their origins. However one source is an organisation called Donors' Offspring, founded in 1982 by Candace Turner, an American.³⁶ Ms Turner had been conceived by AID in 1948 and on discovering this, had tried to find out about the donor's medical and cultural history. Having had difficulty in doing this she decided to launch a public campaign to

establish the right for all AID-conceived people to know about their origins and to prevent the abuse of AID practice. In a series of documents published by the organisation, Turner attempts to convey her views on how AID ought to be practised from the perspective of the person conceived. In a document entitled, 'The kind of parents all AID children would like to have' (n.d.), Turner argues an AID child would want

parents who plan to tell them the facts of their conception before they reach 12 years of age We hope our parents will get detailed information either sealed or unsealed for us to read later of our medical, cultural, and character backgrounds from the donor.

She provides a model bedtime story, to assist parents in telling a four year old child of his/her conception, and suggests developments in the story as the child gets older. Once the child is thirteen-to-sixteen, Turner suggests s/he should be given all known information, except the donor's name, which should be made available either when the 'child' reaches eighteen or if something happens to his/her parents. Pictures of the donor should be provided along with his name. She suggests that donors could be relatives of the husband and have a 'favourite uncle' role. The other possibility she suggests is for several of the husband's friends or relatives to donate, with only the doctor, and eventually the 'child' after the age of eighteen knowing whose sperm was actually used.

This would

make the child feel good that the whole family desired their birth so much, as to help in this way. A true love child. (1982:3)

The 'official policy' of Donors Offspring is therefore,

that parents of artificially inseminated children plan to tell them the truth at some point, probably before they are of marriageable age, regardless if they are AIH, AID, or AID by known donor or AID by relative. This goes for test-tube babies, adopted eggs, adopted embryos, and adopted wombs that produced the person. (1982:4)

Turner acknowledges the arguments against telling but claims that many of

these fears are unfounded, though she 'admits' this is based on only small numbers so far.

Grandparents and offspring and others took the news well, rarely referred to it again, yet seemed to be happy to be trusted with the information. Many offspring felt proud and closer to their parents. Some were relieved to know their Dad's diseases would not threaten their futures and cause subfertility. Other fears mentioned will disappear with counselling and others seem quite unethical to us. Try honesty. It will work for you' (1982:4)

Since Turner's campaign has gained publicity, a few other individuals have come forward to call for similar rights. However of the five adult AID offspring contacted by Achilles, three were interested in tracing the donors and other information, two were not. All five reported feelings of being different from the rest of their extended families and of being told of their conception in adverse circumstances. Achilles concludes that the experiences of these five 'illustrate most clearly that secrecy is not only sometimes infeasible but definitely not beneficial' (1986:115).³⁷

It is clearly not possible to claim that all AID adults would share Turner's views, were they to know about their conception. However, it is important to be aware that such views exist since they represent a particularly poignant perspective on the management of origins information and are a powerful reminder to ask why the information has been rendered unknowable in the first place.

(iii) Third parties

The management of origins information means, for the third parties, managing information about their role in a 'child's' conception and/or birth. It is as much an issue for third parties as it is for policy-contributors, parents and 'children'. This is particularly so in

the case of surrogacy, since an explanation has to be provided for the fact that the pregnancy is not followed by a new baby in the surrogate's household. It is also relevant to sperm and egg donors who might have to explain their absences when donating, let alone explain the origins of a 'child' who succeeds in seeking them out in later life (or the potential of a 'child' so doing). Though there are few studies on this aspect of being a third party³⁸ two surrogate mothers have published their stories, which give some indication of what is involved.

Kim Cotton was recruited by an American commercial surrogacy agency who expected her to keep the surrogacy arrangements secret; her own inclination had been to be totally honest about the arrangement (1985:35). Her account shows the practical difficulties of maintaining secrecy, not the least of which was that her family knew her husband had had a vasectomy. The news of the pregnancy had at first to be restricted to her husband, her mother and the representative of the agency but keeping it secret from the rest of her family was a burden: specific individuals were then either included or excluded from the secret according to whether Cotton felt they would worry too much and/or oppose the arrangements (1985:51). When her story hit the national headlines in January 1985 she found it just as stressful trying to decide how far to participate in the publicity, how to tell the rest of the family, whether to remain anonymous and so on. Kirsty Stevens (1985) experienced similar problems, though unlike Cotton, she made the surrogacy arrangements directly with the commissioning couple herself. She had less guidance on the legal situation, therefore and this was her main motivation for keeping her involvement secret. When she too found this too much of a strain and told a friend she then had the strain of remembering who knew

what.

In both these accounts the secrecy is characterised by its mundaneity, rather than drama and in this they are similar to the parents studied by Snowden et al (1983). Both surrogates were willing to meet the 'child' in later years should s/he wish: this is a theme explored in greater detail in the next chapter.

These accounts of family-related management clearly show that most parents favour secrecy about the 'child's' conception, even if circumstances force some of them to modify their position. There is some evidence that they are supported in this by the clinicians with whom they come into contact. The position of the 'children' and the 'third parties' is less clear, because of the lack of evidence, which itself is a direct result of the secrecy surrounding most third party conceptions. There would however appear to be the potential for conflict between the nurturing parents and the 'children' at least.

An additional contribution of the material in this section is that it enhances our understanding of the social aspects of secrecy. First we have further confirmation of the need to be cautious when using 'secrecy' as an all-embracing term because the various parties to third party conceptions keep different aspects of their involvement hidden from different areas of their private and public lives. Second, we can also see that being secretive is not a passive state for any of the participants: deciding not to tell something to someone means that the individual has to be active in dealing with questions and comments in diverse situations, in the light of what is being kept secret. Third, breaking the secrecy is also an active process over time, involving

decisions as to who should be told what, when. Equally, those who are informed then have to become active in sustaining or breaking the secrecy.

Synthesis

In the final section of this chapter I shall try to draw together the various strands considered hitherto and highlight further questions which need to be addressed. In reviewing the material presented so far it is apparent that though there is common ground there are also some sharp differences in the way in which the management of origins information is discussed. It is possible therefore to see patterns emerging which cut across the divisions between the policy and family sections.

There are two aspects common to much of this material. First, it is clear that the issue of the 'child's' origins is seen as something that has to be dealt with: though not the most prominent aspect debated in the development of the new reproductive technologies, it is nonetheless something which has demanded the time and consideration of many groups and individuals. The second theme common to these discussions has been the tendency to focus mostly (though not exclusively) on the question of 'what to tell the 'child'?. Even though other aspects of the origins issue arise most discussions return to this central theme. However, the historical perspective shows that there is then a clear difference between those for whom secrecy has been the favoured strategy since AID started, such as nurturing parents and clinicians, and those for whom the practice of secrecy has been highly problematic, such as the Archbishop's Commission and the Feversham Committee, for whom secrecy was sufficient reason to discontinue AID.

With the expansion of AID and the development of other forms of third

party conceptions the strategies for handling the information concerning the 'child's' origins have diversified further. It is now possible to identify three competing strategies which have emerged and gained currency in the 1980s. The first management strategy involves telling no one about the 'child's' origins, particularly not the 'child' him/herself, on the grounds that there are no obvious benefits to be derived from the telling and in fact, to the contrary, some risk of damaging the 'child'. This essentially is the stance taken by the couples studied by Snowden et al (1983), Owens (1982/3), Humphrey and Humphrey (1983; 1988) and Alder (1984 a & b) and is also favoured by clinicians such as Glatt (1982/3). Historically it was also the position taken by Barton et al (1945) and by those such as the Peel Report (1973) who assumed the means of conception would be kept secret.

The second strategy involves telling the 'child' about the means of his/her conception, on the grounds that s/he would suffer from the effects in the family of that information being kept secret. However, what the 'child' can be told is limited by the principle of anonymity, since it is not clear to the proponents of this view what benefits s/he could derive from knowing the name of the third party, when at the same time the policy of releasing that information could lead to a fall in donor numbers. This is the position favoured by the Warnock Report (1984), by the Council for Science and Society (1984), by Snowden et al (1983), the Consultation Paper (1986) and the American Fertility Society (1986). Therefore, unlike the nurturing parents, policy-contributors in the 1980s seem to have accepted the principle of limited telling. This is also the position favoured, for the moment, by the UK White Paper (1987) and is the position to which the Glover Report (1989) would

retreat if the experiment on naming donors did not succeed, on the grounds that it would be better for the 'child' to be born without the possibility of gaining this information than not to be born at all.

The third strategy recommends telling the 'child' as much as possible about both the donation and the donor, including the donor's name, since s/he will need this to develop a full sense of identity. The clearest proponents of this strategy are the Swedish policy-makers on AID and the organisation Donors' Offspring, though the possibility is hinted at in the White Paper and recommended on an experimental basis by the Glover Report.

These strategies represent general trends rather than absolute distinctions, since we can see some blurring of the edges between the second and third strategies by the Glover Report and the White Paper. The erosion of the principle of anonymity in the Warnock Report for the case of egg donation is another example. It is also the case that these distinctions fit AID better than the other forms of third party conceptions, as that last example shows. This, in turn, is a reflection of the low level of awareness so far of how the issue of origins needs to be addressed in those other forms of third party conception. For the moment however it is important to note that these different strategies can be identified and that, in that identification, other aspects of the origins issue emerge for further examination.

One feature that should be noted about these different 'policies' is that each is presented and defended in terms of the 'child's' best interests, which is perhaps not very surprising given that the motivation behind each procedure is to produce a child. This also perhaps explains the centrality of the theme, 'what to tell the child'. However, the fact

that they each share this form of justification means that it is not possible to arbitrate between them on that basis, of the 'child's' best interests. This means that each explanation has to be examined further to see how these 'best interests' are defined and how they differ from each other. Once that step has been taken it is possible to see that in each case the 'best interests of the child' is defined by invoking a series of vignettes, social situations in which the 'child' will suffer as a consequence of the mishandling of the information concerning his/her origins. For example vignettes such as, 'it's better not to tell the child anything because of the stigma of illegitimacy' or 'it's better to tell the child about the means of conception because of the problems arising from family secrets' or 'it's better to tell the child everything about the donation and the donor because everyone has the right to know their genetic origins'. In other words, the 'best interests of the child', in terms of what s/he should be told about his/her origins, are understood and set, by the policy-contributors and others presented in this chapter, within a context framed by social relationships and social norms. This means that the deployment of different strategies for managing origins information has consequences way beyond the individual 'child'. This confirms the point made in Chapter 1 that it is not sufficient to confine the analysis of interest in origins to the psychological needs and desire of the individual 'child', but rather the analysis must take into account the social processes which construct the context in which information about origins is deemed to have relevance: a context which has been constructed prior to the expression of interest in origins by any particular 'child', or indeed, prior to the creation of any particular 'child'.

Therefore the next chapter returns to the three strategies identified here, to examine further aspects of those wider social processes to see how they affect and are affected by, the management of origins information.

Notes

- 1 See, for example, Snowden and Mitchell (1981:15); Warnock (1984:19); Yoxen (1986:25); Downie (1988:106).
- 2 Artificial Human Insemination. Report of a Commission appointed by His Grace the Archbishop of Canterbury. Society for the Propagation of Christian Knowledge, 1948.
- 3 Home Office and Scottish Home Department. Report of the Departmental Committee on Human Artificial Insemination. (Chairman: The Earl of Feversham). HMSO, 1960 (Cmd 1105).
- 4 British Medical Association. Annual Report of the Council. Appendix V: Report of the Panel on Human Artificial Insemination. (Chairman: Sir John Peel). British Medical Journal Supplement, 1973, 7 April, Vol II:3-5.
- 5 Two points are worth noting here about the extent of secrecy in AID. First, accounts of the very first case of AID refer to the fact that secrecy in that case extended even to the couple themselves (see Snowden and Mitchell, 1981:13). Second, Barton et al argued that experience of couples choosing their own donor led the doctors to favour anonymity between all parties since they found insufficient emotional detachment between the woman recipient and the donor; also they argued that using a known donor 'is usually incompatible with secrecy' (1945:41).
- 6 Suggestions either to legitimate AID 'children' or to provide them with limited rights of inheritance, were rejected on the grounds that this would be seen as encouraging the practice.
- 7 The hopes of the Feversham Committee that AID would disappear had not been realised and in 1968 this was recognised by the Minister of Health who suggested that AID should be available on the NHS if recommended on medical grounds (Warnock Report, 1984:19).
- 8 It is difficult to gauge the sentiments of the wider community at that time. I have however made a detailed study of the parliamentary debates on artificial insemination during this period (1940-1982) which provide at least some sense of the non-committee views on these issues. Lack of space prevents a lengthy presentation of this material, but it is fair to say that with two exceptions, parliament displayed little awareness of the complexity of the issues raised by AID and IVF and even less concern for the specific question of managing origins information. The exceptions are (i) the Lords debate in 1958 (Hansard, v207, c926-1016) which preceded the announcement of the establishing of the Feversham Committee and (ii) the discussion initiated by Leo Abse in the Commons in 1982 (Hansard, v21, c279-286). In the former, secrecy about AID was raised as an obstacle to gaining clear data about its use and as an indication that AID was known to be morally wrong; in the latter, Abse expressed concern that a child born from a donated embryo would never be able to 'gain a confident identity' (column 281).

- 9 See, for example, the Warnock Report (1984:19).
- 10 The Feversham Committee reported on AID in eleven other countries, though in only three was the handling of origins information mentioned. Secrecy was central in all three though in one case, Sweden, secrecy about the use of AID did not include anonymity between the adults since known donors were not excluded (1960:87-91).
- 11 Department of Health, Education and Welfare (HEW) Report of the Ethics Advisory Board on Human In Vitro Fertilisation, May 1979 (see Singer and Wells, 1984; Grobstein, 1981; Murray, 1981).
- 12 Victoria Government, Australia. Committee to consider the social, ethical and legal issues arising from in vitro fertilisation (The 'Waller Report') (a) Interim Report, 1982 (b) Report on Donor Gametes in IVF, 1983 (c) Report on the Disposition of Embryos Produced by IVF, 1984. (The Waller Report was out of print at the time of writing and proved very hard to acquire; this information is derived from Waller (1987), Singer and Wells (1984:223-6) and Spallone (1987)).
- 13 Children conceived by Artificial Insemination, 1983 (Statens offentliga utredningar, 1983:42). A second part on IVF and surrogacy was published in 1985 (Statens offentliga utredningar, 1985:5; Barn genom befruktning utanför kroppen).
- 14 The information for this section was derived from the 1983 report and from an interview with the Committee chairman, Tor Sverne, conducted in May 1987. The report cites an inquiry which suggested that not all donors minded being named (1983:42/14) and Sverne suggested the naming of donors would be unproblematic within ten years. He argued that the donor profile had changed since the 1985 legislation, from students or military personnel, to older, altruistic married men.
- 15 The legislation does not cover egg donors since the 1985 Swedish report banned both egg donation and surrogacy. Sperm donation in conjunction with IVF, as opposed to AID, was also banned.
- 16 Hansard, House of Commons, v28, 23/7/82:c329.
- 17 Ibid. The idea that any of the members could legitimately be described as 'representing' their religions was criticised by the Society for the Protection of the Unborn Child (Human Concern, No 11, Winter 1982), amongst others.
- 18 A very similar set of conclusions was reached by the Council for Science and Society in its consideration of the new reproductive technologies published at about the same time as the Warnock Report (1984:37; 47-48).
- 19 The initial response to the Warnock Report as a whole was generally favourable but became more critical as the detailed analysis of individual sections took place (Hare, 1987:82). For more general

reviews of the Warnock Report see, for example, Hursthouse (1987:352-5), Hare (1987), Brazier (1987:179-198), Stanworth (1987), Lee (1986).

- 20 The parliamentary debates on the Warnock Report appear in Hansard, House of Lords, v456, 31/10/84:c524-531; 539-593 and Hansard, House of Commons, v68, 23/11/84:c528-90. The debates on the Surrogacy Arrangements Bill appear in Hansard, House of Lords, vols 460; 463; 464; 465; 466 and in Hansard, House of Commons, vols 74, 77, 79. See also Yoxen (1986:89-90). Surrogacy was subjected to individual legislation after the birth of Baby Cotton in January 1985.
- 21 Department of Health and Social Security Legislation on Human Infertility Services and Embryo Research: A Consultation Paper, Cm 46 (December 1986).
- 22 Department of Health and Social Security Human Fertilisation and Embryology: A Framework for Legislation. Cm 259 (November 1987) ('The White Paper').
- 23 Hansard, House of Commons, 23/11/84, v68:c581.
- 24 It is important to note its occurrence in the surrogacy debates since on many other occasions the issue of origins information is raised only in relation to AID.
- 25 I tried to trace the origins of this statement in several ways, including inquiring at the Department of Health and Social Security, where the White Paper was produced and through collecting the responses to the Consultation Paper from various individuals and organisations. No information was forthcoming from the DHSS and it proved difficult to acquire a complete list of responses to the Consultation Paper. However, the responses I did collect tended, on the whole, to favour retaining anonymity; these included responses from the British Medical Association Council, the Royal College of General Practitioners and the Royal College of Psychiatrists (all of whom wanted only very limited information to be released); the Family Planning Association, the National Children's Bureau, the Children's Legal Centre, the Women's Groups Briefing Document and Smart (1987a) all favoured retaining anonymity, whilst releasing information about social background; only one individual argued for a gradual move towards releasing full identifying information about the donor (Monach, 1987). It is important to note that whilst the clinicians wanted to restrict information for fear of loss of donors, feminists such as Smart (1987a) argued for anonymity between all parties to prevent male donors interfering in the subsequent mother-child relationship.
- 26 Hansard, House of Commons, 4/2/88, v126:c1198-1256.
- 27 However, Walters (1987) reviewed the work of fifteen international committees, comparing their contents against a list of pre-selected criteria, including whether donor anonymity was a required policy.

Of the nine committees which post-date the Warnock Report, four require anonymity, four do not and one does not mention it.

- 28 American Fertility Society (1986) Ethical Considerations of the New Reproductive Technologies, Fertility and Sterility, 46(3)Supplement 1.
- 29 Glover, J. (1989) Fertility and the Family The Glover Report on reproductive technologies to the European Commission. London: Fourth Estate.
- 30 Singer and Wells make a similar point (1984:75), but I suspect this claim raises more questions than it answers and certainly presumes much about the child's quality of life. I have sought clarification from Dr Glover on this point.
- 31 It is quite unlikely that some of the changes documented above are attributable to an awareness in the concurrent changes in access to information in adoption. Certainly adoption has been cited as an example in some of the arguments for at least telling the 'child' about the means of conception. However to trace the precise links between the two sets of developments would demand a study of its own.
- 32 The Glover Report (1989) is particularly prone to this.
- 33 Nack publishes contributions from doctors, psychologists, sociologists, social workers and many other professional groups, some of whom are members, but not all.
- 34 The secrecy surrounding AID partly determined this design since the investigators did not want to alert hitherto-unaware 'children' of their status; hence they decided to approach only those couples whose children had either left home or were too young to understand (1983:76).
- 35 Alder reports another study comparing AID wives (sic) with IVF wives (sic) in which secrecy was said to be important to 85% of the AID wives and to 40% of the IVF wives (1984b). She does not specify if donated gametes were used in the IVF cases though I suspect from the context they were not. This suggests that secrecy may not only be associated with the use of a donor, but also with the use of 'artificial' reproduction in general. However, the evidence is mixed: Singer and Wells (1984) report 77% of an IVF group being willing to tell the child how s/he was conceived; Chan et al (1989) report 47% of women and 61% of men unwilling to disclose their participation in an IVF/GIFT programme; Louise Brown and other early IVF 'babies', on the other hand have been raised in full knowledge of their means of conception.
- 36 The information for this section was derived from an interview I conducted with Ms Turner, plus extracts from documents supplied by her organisation, Donors' Offspring.

- 37 Clearly the numbers are very small and in fact the same names tend to crop up in most accounts: Candace Turner, her brother Tim and Suzanne Rubin. These were three of Achilles' sample of five.
- 38 Studies by, for example, Daniels (1986) and Rowlands (1984) on the extent to which donors agree with the release of identifying information are presented in more detail in the next chapter.

CHAPTER 3

SECRECY, ANONYMITY AND OPENNESS: EVALUATING THE STRATEGIES

Introduction

I concluded in Chapter 2 that it is possible to identify three strategies for handling information concerning the origins of a 'child' resulting from a third party conception: the first strategy entails maintaining complete secrecy, telling no one about the 'child's' origins; the second strategy involves being open, to the 'child' and to others, about the means of conception, whilst ensuring the continued anonymity of the third party; the third strategy is directed towards being completely open¹ about all aspects of the 'child's' origins including the identity of the third party. Therefore, now we know what the different possibilities for managing origins information are, we can turn to consider, in more detail, why these different strategies are thought to be appropriate.

Of the three strategies the middle one, as advocated by the Warnock Report, is particularly interesting. It seems, paradoxically to be both a radical change from the prevailing practice of secrecy, and at the same time a position of safety, to which, for example, the Glover Report would retreat if the experiment to identify donors did not succeed and from which the White Paper peers out to view the possibility, without committing itself, of moving towards the third strategy. All sorts of interesting questions, therefore, can be raised about the middle strategy when it is viewed in the light of those alternatives. For example, is it merely a reaction against the prevailing secrecy and if so, what prevents its proponents from pursuing the complete openness of the third

strategy? Or should it be seen as a deliberate compromise between complete secrecy and complete openness, trying perhaps to balance what are seen to be the competing claims of the various parties involved? Or even, is it just a muddled strategy, given the view that the first and third strategies at least possess a certain consistency and hence coherence, whereas the middle strategy might be seen as comprising a curious mix of the two. Even if the notion of a 'muddle' were rejected, the question would still remain as to how the middle strategy is able to satisfy the competing claims of the first and third strategies which encroach upon it.

It is particularly important to get a clearer sense of why that middle strategy is proposed since it is likely to be highly influential in the development of UK social policy. It is thus likely to have a direct impact on prevailing practices. Therefore to start to understand why the middle strategy has been deemed appropriate we need, first, to understand those practices of secrecy which it is seen, by its advocates, to replace. Second, we need to understand what is thought to be gained from replacing most of those practices whilst retaining one particular element, that is, donor anonymity.² I shall try to do the first by examining descriptions of the practices surrounding AID and the other technologies to see how and why secrecy was both made possible and has been sustained. I shall try to do the second by examining in more detail and more critically, the explanations given in the Warnock Report which defend its position on managing origins information. I shall be suggesting that those explanations are incomplete, if not actually flawed. I therefore end the chapter with alternative explanations for the attraction of the middle strategy.

Secrecy in third party conceptions

So far in this thesis I have deliberately been using the terms 'secrecy' and 'openness' rather loosely, to depict the broad differences in strategies for managing origins information. However, in trying to evaluate a strategy which aims to remove secrecy in AID and other reproductive procedures it is necessary to see in more detail those practices which actually constitute that 'secrecy'. It is also important to review, more systematically than I have done so far, what gains are thought to be derived from secrecy, since it is so strongly advocated.³

It is possible to identify a vast array of measures which contribute to the closed secretive world in which attempts at third party conceptions take place. Many of these arise from the practices of clinicians: indeed Achilles claims that the clinical setting directly facilitates secrecy, including donor anonymity (1986:27). That can be substantiated by the 'credo' of practice developed by Guttmacher since the 1940s. Rule One is,

The donor must remain completely anonymous to the recipient and the husband, and the recipient and the husband must remain equally anonymous to the donor (1969:570).

Rule Five is,

Paternity should be accorded to the legal husband, not the donor, both on the hospital record and the birth certificate. If one does not do this, he largely abrogates the chief advantage of AID. Only three people in the world, the doctor, the husband and the patient, should know that the child is not the child of the husband; if more than these three know it, AID would have scant advantage over adoption. (1969:571, emphasis added)

Guttmacher continues by saying that he makes it a rule only to accept medical students or young physicians as donors and

An attempt is made to match in a broad but inexact fashion the physical characteristics of the biologic and legal fathers. We approximate height, body build, complexion, colour of eyes and hair. We do not attempt to duplicate blood groups or religious backgrounds. (1969:571).

Each of these measures contributes to secrecy about AID in the following ways: anonymity prevents any sort of later contact between the main parties; registering the husband as the father disguises the use of a donor; using this disguise in clinical as well as civil records provides extra insurance against the use of AID becoming public knowledge; AID has an advantage over adoption precisely because it allows the subterfuge of the appearance of an ordinary pregnancy⁴; recipients are advised not to tell anyone about the AID; restricting recruitment of donors to the medical world prevents the practice becoming part of everyday life; finally, matching⁵ the physical appearance of the husband and donor prevents speculation about the 'child's' paternity. Daniels supports this last point:

Matching is particularly important to those couples who are intending to maintain secrecy regarding the child or the child's origins. (1985:238)

Evidence from elsewhere confirms that Guttmacher was not alone in pursuing such practices. Dr Curie-Cohen gained information from 379 AID practitioners in the United States and discovered that 62% used only medical students or staff as semen donors; these were

then matched phenotypically to the recipient's husband ... 32% used multiple donors within a single cycle. Only 37% kept records on children and only 30% on donors. The identity of donors usually was carefully guarded to ensure privacy and to avoid legal complications (1979:585).

Additional practices which enhance secrecy can thus be found from this survey. The use of multiple donors inhibits the identification of the actual genetic father when a conception occurs and is similar in purpose to two practices reported elsewhere: that of mixing sperm from different donors and that of mixing donor sperm with the male partner's sperm (CIBA, 1973:35; McLaren, 1973:7). A variation on the same theme is

reported by Snowden and Mitchell (1981) who cite the following from an advisory leaflet from the Royal College of Obstetricians and

Gynaecologists:

provided you do not abstain from intercourse during the period in which AID was carried out there can be no certainty that any child conceived is not your husband's (RCOG: 1979).

Though not directly secretive, such practices help to obfuscate the truth surrounding AID, by reducing both the visibility and the psychological impact of the use of donors. The reluctance to keep permanent records is a more direct indication of the wish to keep AID secret: others have commented on the tendency of clinicians to keep either incomplete records, no records at all, or records capable of easy destruction, all with the intention of preventing the discovery of information about donors, recipients and 'children'.⁶

The use of frozen semen, which allows for a wider choice of donors and greater flexibility in AID provision, also creates further possibilities for restricting the flow of information and reducing the chance of accidental contact between the different parties. The doctor is less likely to know or to have met the donor, especially if the sperm was obtained through a sperm bank. Actual and symbolic distance between the donor and the recipients can result from freezing sperm, given the time which can then occur between the initial donation and its use (Cusine, 1975:39), and the fact that of course frozen sperm can be transported all over the world (Fletcher, 1955:128). It has even been suggested that if only frozen sperm from dead donors was used, 'there would be no chance of the donor interfering with the life of a posthumously-conceived child' (cited in Reilly, 1977:206).

As that last example suggests, there are practices in AID which try

to make the whole procedure impersonal, to depersonalise the parties to each other. This then makes it easier to deny or dismiss what has occurred and thus to minimise the significance of any subsequent secrecy. For example, Guttmacher says,

Each semen specimen for donor insemination is bought on a wholly impersonal basis like blood for transfusion. (1969:573).

Though the analogy with blood donation could be seen as highly positive ('life saving' and 'life creating') the suggestion here is the opposite: that sperm donation is a routine, commercial act between strangers, removed from the realm of sentiment. Fletcher claimed most donors saw the donation 'in a scientific and purely impersonal spirit' (1955:129). David and Avidan report that their recipients regarded the semen 'as a mere fertilizing agent ... by paying the donor, indirectly, they had no resentment or other feelings towards him' (1976:531). Of course the very decision to use artificial insemination rather than to have sexual intercourse with the donor is the most obvious way in which the parties are depersonalised from each other (CIBA, 1973:31), though Fletcher describes an odd twist in this tale in claiming that doctors 'often' allowed husbands to operate the syringe containing the donor semen, so that they then could say, 'I impregnated my wife' (1955:125). Daniels reports that donors are not told either about the recipients or any pregnancies resulting from their donations. They are not, he argues, seen as an equal member in the AID arrangement (1986:342; 346).

Therefore, deliberately or otherwise, directly and symbolically, the practice of AID contains many procedures which both militate against its existence or usage having a public face and which prevent the exchange of information between the various parties. These procedures therefore

create and sustain the secrecy surrounding AID. What is not clear however, owing to a lack of information because of its shorter history, is the extent to which any similar practices, *mutatis mutandis*, are surfacing around egg donation. Two issues which have emerged which suggest a tendency to secrecy are, first, the recruitment of donors and second, presumably related, the use of known donors. There is a question mark over the source of egg donors since the Glover Report claims there are no public appeals for donors in Europe (1989:39). The 1987 Report of the Voluntary Licensing Authority (set up by the Royal College of Obstetricians and Gynaecologists and the Medical Research Council to provide voluntary regulation of IVF in the absence of government action to establish a statutory licensing authority as recommended by the Warnock Report) suggests that women undergoing sterilisation were asked to donate their eggs to infertile couples (1987:13). We saw in the previous chapter that the Warnock Report acknowledged the difficulties of finding egg donors and suggested that this might then be grounds for asking a friend or relative to act as a donor. The VLA however has consistently been uneasy about this. In their 1986 Report they argue

The Authority is aware that egg donation between sisters has been arranged at one centre. Whilst it is not suggested that this practice should be banned, the procedure should be carried out only under exceptional circumstances and only after very careful counselling of both donor and recipient. The reason for the Authority's concern is that the donor is not in these circumstances anonymous (1986:15).

Their position the following year was firmer:

Egg donors should remain anonymous and, for this reason alone, donation from any close relative should be avoided, as this may not be in the best interests of the child (1987:8).

The 1989 Report contained a summary of papers presented at a conference the VLA arranged on egg donation, at which it was clear there was a high

level of conflict. Three speakers called for flexibility over who to use as a donor and four speakers urged caution about using relatives as donors; the Authority decided to maintain its position and in fact added another guideline advising against the use of close relatives in IVF surrogacy too (1989:35).

Surrogacy gives rise to yet another set of considerations regarding secrecy. At first sight it might appear incapable of disguise, either by the pregnant surrogate or the non-pregnant recipient who suddenly acquires a baby. However, the use of agencies, commercial or otherwise, combined with artificial insemination or in vitro fertilisation or embryo transplant (Puxon, 1986:193) mean that the parties do not have to meet either to make arrangements or to achieve a pregnancy. The commercial aspect might add to the depersonalising effect, as I suggested might occur with paid sperm donors. This is exacerbated by practices such as referring to the surrogate as a nurse (Revillard, 1973: 86) and removing any trace of her existence:

The surrogate mother should have absolutely no legal interest in the child, nor the child in its surrogate. The name of the surrogate should not appear on the birth certificate, nor should it be recorded on any other document. The best interests of the child require the utmost concern for confidentiality (Reilly, 1977:221).

Singer and Wells suggest that the role of a gestatory surrogate in particular can be regarded as 'a temporary intervention' since she is 'more like a wet nurse or a nanny' (1984:130). There is evidence from the account of the surrogate mother, Kim Cotton that she too tried to depersonalise the recipient and the child. She wanted there to be no physical resemblance between the child she was a surrogate to, and her own children; she did not want to meet the commissioning couple and above all, she did not want to see them with the baby. She was relieved that

when the baby was born, 'no flood of maternal love rushed in' (1985:137; 153).

The effect of all these practices in AID, egg donation and surrogacy, is threefold:

- (i) they close off these third party conceptions from the public gaze;
- (ii) they diminish the significance of what is being done though conversely this suggests that these activities are regarded as highly significant;
- (iii) and they lead to actual and symbolic distances between all the different participants.

Consequently these practices create, sustain and enhance an aura of secrecy around third party conceptions, AID in particular. The question then is, why is secrecy thought to be so necessary? As Bok (1982) suggests, we cannot assume that secrecy is always a negative act, hiding something shameful. Therefore a more neutral stance is needed in order to evaluate the case for secrecy in third party conceptions. We have had some general indications in Chapter 2 of the apparent benefits of secrecy; now I shall consider each participant in these procedures in turn to see if and why they are thought to benefit from that secrecy.

The donor Anonymity has been said to 'favour the donor' (Council for Science and Society, 1984:8) and Joyce argues that it is a 'prime concern' for most donors (1982:3). Snowden and Mitchell point out that different aspects of being a sperm donor such as having to produce sperm 'on demand' and having to accept the avoidance of legal and moral responsibilities for the 'child' produced, places the donor in an

ambiguous position which can only raise questions about his motivation and which suggests he might benefit from keeping his involvement secret (1981:72).

Similar questions have been raised on many occasions, for example, by the Archbishop's Commission who wondered whether 'spiritual pride' may be disguised as 'altruistic idealism':

The conscious or ostensible motive may be compassion for the sterile couple, while other motives are present (although unrecognised), such as the desire for power and self-assertion, or the presumption that the donor possesses capacities of such outstanding quality that they ought to be propagated. (1948:27-8)

The Feversham Committee expressed similar concerns:

At this stage we are merely concerned to question whether a man who is prepared to accept the role of donor, without even seeing the mother of the child ... can have a proper sense of his responsibilities towards that child or towards society. (1960:58)

They noted a psychiatrist's observation that, 'it is an activity which might be expected to attract more than the usual proportion of psychopaths' (1960:59).⁷ Although Humphrey and Humphrey cite a study of the personal qualities of sperm donors as indicating that 'we can rest assured that cranks and misfits are not alarmingly over-represented in the donor population' (1988:145), the fact that it is a topic still discussed, however lightly, suggests donor motivation remains a source of 'uneasiness' about the practice (Snowden and Mitchell, 1981:72). Other features of sperm donation in particular might tend the donor towards desiring the protection of anonymity. The Council for Science and Society point out that a persistent fear has been that the 'child' resulting from AID might be able to claim financial support from the donor, as well as rights of inheritance. This could have a material impact on the donor's own family, as could the possibility of the donor

being charged with negligence, should any defect in the child be attributable to his or his family's history of illness (1984:38). The charge of adultery has been another concern to those inquiring into AID, and which obviously involves the donor (particularly if married) as much as the married female recipient. Fitzgerald reviewed the four relevant court cases and said that the trend supported the idea that AID was not adulterous but added that there was still room for speculation (1975:2-3). Such speculation still continues (e.g. Hare, 1987:73). Whichever the final view, the discussions themselves could only serve to taint the practice and anyone associated with it in some people's minds. More personally perhaps for the sperm donor is the association between donation and masturbation. With its connotations of the 'secret sin', Bullough and Bullough argue that hidden fears about it still remain, even though the trend towards its acceptability is continuing (1977:73; 71).⁸ Certainly present day concerns are more with embarrassment than sinfulness; Glover talks of the students' donations being treated 'as an embarrassment, to be accepted but swept under the carpet' (1989:36). Certainly the difficulty for the donor of talking openly about such matters should not be under-estimated.

All these aspects of donation it is argued militate against the likelihood of donors being willing to be identified, aware as they might be in the words of the Swedish Insemination Committee of 'public attitudes' towards AID, which see it as a 'questionable method' of correcting childlessness (1983:42, p.14). Thus the practices of secrecy, anonymity in particular, all act to ensure that donors keep donating:

Donors must remain anonymous. If their anonymity were not preserved, semen donors would not come forward and the donor insemination services would have to cease. (VLA, 1987:44)

The 'child'. Since the Archbishop's Commission argued that AID should be banned because of the damage to the 'child' from the necessary secrecy, most writers, until perhaps Snowden and Mitchell in 1981, agreed that it was in the 'child's' best interests to know nothing of his/her means of conception through donated sperm. Three main themes underpinned this reasoning: the 'child' would be illegitimate; the 'child' would be stigmatised as a 'test-tube baby'; the 'child' would be confused about his/her parentage and identity. The stigma of illegitimacy has been a strong justification for secrecy. For example, the Archbishop's Commission:

So long as telling the child of his origin involves at the same time the announcement that he is illegitimate, that in itself must be a formidable deterrent. The alternative is to leave him still in perplexity and trouble. (1948:27)

Fitzgerald explored American case law to see if the illegitimacy of the AID 'child' had been clearly established and in the six relevant cases found the law to be inconsistent (1975:3-4). However, as the Peel Report observed, in everyday life, 'if the child is living in an ordinary household where there are a husband and a wife who could be presumed to be his parents' then the 'child's' legitimacy is unlikely to be questioned (1973:3). However, if the 'child' were told or discovered s/he was an AID 'child' that would suddenly make the illegitimacy a relevant issue. That report recommended that the 'child' be declared legitimate if the husband of the 'child's' mother had consented to the treatment; this call was echoed by others (e.g. Frankel, 1974; CIBA, 1973:92).

The legitimization of the 'child' would not solve the next problem however: that of being a 'test-tube baby'⁹, which could of course apply

to those conceived through egg and embryo donation, as well as AID. The stigma of being different is said by the Royal College of Obstetricians and Gynaecologists to be an important consideration (1983: 9-10).

Whilst the concerns over illegitimacy and the unusual means of conception have perhaps faded in the 1980s, the third case for controlling information about the 'child's' origins has become more prominent: that is the confusion such information may create in the 'child' as to his/her parentage and personal identity (Board for Social Responsibility, 1985:45). Grad refers to the 'very real damage' that may be done to 'children' to discover they are not the children of their putative parents (1968:508). Joyce tries to imagine what the reaction to such knowledge would be and argues that the outcome is sufficient to win the case against telling the 'child'. One reaction would be to try to find out about the genetic parents, but that would be impossible given the other secretive practices, so the resulting uncertainty would then cause more damage. Another reaction might be to tell others and thus risk 'ridicule or disapproving reactions', only avoided, according to Joyce, by the 'guilty secret' of the parents becoming 'the guiltier secret of the child' (1982:9). A third reaction would be to,

break up the symmetry of the child's relationship with its parents, putting the stability of the family unit at risk and probably spoiling the father-child relationship. (1982:9).

Each of these fears applies equally to egg and embryo donation, and to surrogacy. In the case of surrogacy, Glover argues that it could be additionally damaging to discover one had been bought as a baby (1989:75).

Therefore, the case for retaining strict control over information about the child's origins appears to be very strong especially when it is based on protecting the best interests of the 'child', since the motive

itself is unimpeachable.

The male recipient.¹⁰

Again we ask, for whom is AID being kept secret? ... Is it really to protect the child from the painful discovery that his social father (pater) is not his biological father (genitor), and from the subsequent problems of self-identity to which this may give rise? Or is secrecy maintained in order to protect the husband's feelings in his attempt to appear normal by having children as other husbands do? (Snowden and Mitchell, 1981:104)

In the phrasing of the question the authors provide their own answer:

what therefore is the male partner thought to gain from secrecy about AID?

Various writers have commented on the male's sense of inadequacy when his infertility has been discovered and of his desire to hide this, partly because of the confusion between virility and sterility. Anger and pain is a common response (Humphrey and Humphrey, 1988:137). Farris and Garrison report responses to a questionnaire on why couples preferred AID to adoption: husbands gave replies such as 'In the public eye I am the father'; 'concealed a deficiency in myself'; 'concealed my own sterility' (1954:20).

These are important reasons, Joyce argues, for not allowing greater openness in the practice of AID at least.

disclosure of the fact of AID pinpoints the reproductive failure of the husband and the deficiencies of his relationship with the child To ask an AID father to reveal his secret to others who will generally lack the understanding of all he has been through and of how much the child is 'his child', is to ask him to down grade himself in the eyes of others, and most importantly in the eyes of his child. This, I would suggest, is likely to lead to stress far in excess of any associated with the maintenance of the secret. (1982:6)

There is the possibility that the male partner might be jealous of the donor (Glover, 1989:35) and feel rejected for himself (especially, presumably, by anyone who insists on openness). Also he might feel the

child's illegitimacy particularly strongly. In the case of AID then the male recipient apparently has much to gain from keeping information on all aspects as restricted as possible. There is little material, however, which addresses his views on secrecy in egg or embryo donation, which perhaps gives weight to Snowden and Mitchell's central contention, that he favours secrecy to protect his own image rather than to protect the 'child' from the consequences of an unusual conception.

The female recipient. Snowden and Mitchell refer to the guilt felt by some women who have received donor sperm (1981:44) and it is possible to imagine this has various foci: guilt over the association with adultery, guilt over bearing someone else's child, guilt over having a child which her husband could not have, guilt even about wanting a child too much. On this last point, for example, the Archbishop's Commission wondered whether the wife's desire for maternity, which leads her to accept, 'the seed of a man not her husband must be judged to be pathological' (1948:25). Snowden and Mitchell speculate on this possibility too (1981:41).

Clearly secrecy may help her to depersonalise the donor and thus diminish the guilt, but she may also think it will help her husband.

Farris and Garrison report:

The wives' responses were primarily concerned with protecting their husbands, although there was an implication suggesting that their own pride also is involved. Examples of how they felt in these matters are revealed by comments such as, 'No one knows my husband is not the father'. 'There is no question about who could not reproduce'. (1954:20)

It has been suggested that there is a danger of the woman recipient fantasising¹¹ about the sperm donor. Although it would be legitimate

to ask the same thing about the male partner in the case of egg donation (though the question is rarely asked), it could be argued that the woman's greater involvement in the pregnancy and birth would affect the nature or intensity of such thoughts. Secrecy would presumably provide less substance for such fantasies. In the case of egg donation, a woman might be thought to benefit from keeping her infertility secret:

reproduction has been interpreted as the biological difference between men and women. Whether or not it is desirable, women are reared in a society which, in word and deed, implies that a woman is someone who has a baby. (Hansard, v68:535-6)

If a woman has feelings of not being a 'proper' woman because she either cannot produce her own ova or cannot carry a pregnancy, she perhaps has more reason to disguise and distance the role of the egg donor or surrogate who produces the ova or child for her.

The couple We have seen from Chapter 2 that secrecy is the intention, if not always the practice, of most couples entering AID: why are they thought to feel this way?

Many couples appear to accept almost without question the advice to forget all about it. The high professional status of the AI practitioner and the deep desire of the couples to appear normal constitute a powerful combination, encouraging wishful thinking and self-deception. (Snowden and Mitchell, 1981:84).

There appear to be reasons to do with their relationship to each other and reasons to do with their relationship to others: the 'child', their family, their friends and unknown others. Within the couple's own relationship problems could arise with the asymmetry of their fertility and as a consequence, of their relationship to the child. If they can each 'forget' about this aspect through activities like matching, or even deny it through activities like mixing sperm, perhaps their relationship

to one another and to the 'child', is made easier.

The social parents may want their family to be a closed unit, as much like other families as possible, unencumbered by ambiguous half-relationships with donors Parents often prefer anonymous donors who will disappear afterwards. (Glover, 1989:35)

Certainly the Feversham Committee accepted the view that the marriage would be in danger unless the donor was anonymous, but the grounds for arguing this were not given (1960:11).

The couple's relationship with the 'child' and others is thought to encounter difficulties unless secrecy is maintained. Humphrey and Humphrey point out the difficulty of communicating 'such an awkward fact' to a 'child' unlikely to be able to grasp the significance of an anonymous donor (1988:143). Frankel posits the consequences for the couple and their 'child', if anonymity (and all that that entails) is not maintained:

This anonymity appears to be necessary in order to protect against undesired transfers of affection by both the recipient and future offspring. (1974:477)

Joyce can see no benefits deriving from openness for the couple. He acknowledges that secrecy is not without its own stresses but argues that these are far less than those induced by openness, both between the couple themselves and their relationship with others; in fact,

There is a good deal of evidence that the large majority of AID families cope with the stresses of secrecy and produce family units at least as successfully as the general run of non-AID families. (1982:4)

Were this not the case, he argues, the detrimental effect of secrecy would be demonstrable but in a review of studies on divorce rates, psychological and emotional problems, and the quality of marriage, he finds this unproven; therefore

It would seem churlish in the extreme for anyone to suggest an enforced change in AID practice for the sake of the couple in the face of such evidence. (1982:8)

The doctor Joyce claims that as the mere intermediary, or technician, the doctor's position on secrecy or openness is one either of disinterest or of simply responding to the requirements of the recipients and, to a lesser extent, the donors (1982:2). However, we have just seen Snowden and Mitchell's suggestion that the practitioner's advice can be very influential. I would argue his/her role is more a pivot than a go-between, since s/he decides the appropriateness of the particular form of treatment, decides who should be recipients, who should be donors, and advises participants as to the behaviour appropriate to their involvement. Are there any features therefore of these practices which might lead the observer to conclude that for the doctor, secrecy is preferable to openness?

Given the fears expressed earlier, there might be a case for suggesting that the physician has been an accomplice to adultery or to the production of illegitimate children. Certainly Fletcher felt there were grounds for arguing that the doctor might be an accomplice to perjury, concerning his/her advice on the false registration of the birth in the male recipient's name (1955:136). Revillard suggests that the doctor's responsibility in AID is extensive:

It is the practitioner's duty to choose a donor who is mentally and physically sound and who has procreated only healthy children. The practitioner is bound to professional secrecy about the identity of the donor and clearly must refuse members of the husband's family as donors. A child should not know the circumstances of his conception, and the husband and wife are advised to keep the insemination a secret from both their families. The husband and wife should be left free to inform the child at their discretion (1973:82)

In addition the doctor can be held responsible if any aspects of his/her practice are proved to be negligent, or if there are hereditary problems attributable to the donor. On the latter point however Revillard points out that attribution is as far as it goes, since no proof would be possible, because of donor anonymity. 'Professional secrecy' would also oblige the doctor not to release the donor's identity in the light of an attempt by an unmarried woman to seek maintenance, having received artificial insemination (1973:81-83). The practitioner is advised by Fitzgerald to approach AI 'with caution' since although legal conflicts have led to few court cases these in turn have produced 'very inconsistent results' (1975:4-6). Behrman (1979) and Joyce (1982) confirm the tendency to keep poor or incomplete records as a deliberate policy. Behrman attributes this to 'legal uncertainty and fear of reprisals' (1979:620); Joyce, to protect the doctor from 'legal difficulties' with the donor who would have been recruited with the promise of anonymity.

Doctors might also prefer to control information about their practice to avoid detailed scrutiny of their ability to carry out the tasks they have assigned to themselves. Certainly the Feversham Committee expressed doubts about their ability to deal with all medical aspects of AID treatment, which the British Medical Association had listed as knowledge of gynaecology and male infertility, human genetics, and psychological medicine (1960:60-63). More recently Frankel (1974) and Annas (1980) expressed the same doubts, the former suggesting that whatever the medical ability of any individual practitioner, 'it is not within the profession's purview to establish social criteria for AI... Society has certainly not granted him such authority' (1974:480, emphasis in the

original). Annas was particularly concerned that a doctor's reliance on medical students as donors may be based on more than mere convenience, repeating as it does the attributes of those individuals who are most like themselves (1980:335). Whatever the validity of the genetic possibilities in that claim, the concern expressed is real enough.

We can see therefore that a case can be made for why doctors might prefer to perpetuate a set of secretive practices, rather than try to open them up:

Childlessness is an aspect of the human condition which is not fully understood and which arouses ambivalent feelings. That is why public debate has been avoided and possibly why those with powers to help others to have children may resist having their motives questioned. (BAAF, 1984:39)

In the previous chapter we became aware of the prevalence of secrecy in AID; we now know what that secrecy entails and why such elaborate practices are considered worthy of pursuit. This provides a sound basis for evaluating a strategy which wants to change those practices.

The Warnock Report: anonymity and openness

A detailed consideration of practices of secrecy and the advantages thought to derive from them, shows why this has been, and still is, a popular strategy with many individuals and groups. However, many of the perceived benefits are open to challenge, either on moral grounds, or increasingly, by reference to evidence from empirical studies. Therefore, in this section of the chapter I shall recap on the presentation in the Warnock Report of that committee's reasons for disliking the practices of secrecy and, in addition, I shall point out the recommendations in the Report which, directly or indirectly, remove existing secretive practices. I shall then see what support there is

from elsewhere for their views, in order to show that their move away from a strategy of complete secrecy for managing origins, towards a more open strategy, can be defended. I shall then go on to ask why that transition nevertheless retained an element of the strategy of secrecy, in advocating the principle of donor anonymity.

In Chapter 2 I cited the paragraph from the Warnock Report which summarised the committee's reasons for disliking the secrecy which surrounded AID. These were: the deception of the wider family, of friends and of the 'child'; a view that a sense of secrecy would undermine family relationships; a belief that the 'child' would suspect s/he was being deceived; a fear of the harm which would be caused if the 'child' discovered the truth by accident and finally, a belief that it is wrong to deceive a 'child' about his/her origins (1984:21). This was a preamble to their recommendation that the 'child', at the age of eighteen, should be allowed access to non-identifying information about the donor. This was to apply to all third party conceptions.

However, this was not the only recommendation in the Report which supported a move to greater openness. Now that we know more detail about those practices which sustained the strategy of secrecy, we can recognise amongst the full list of recommendations from the Warnock Report, those that would contribute to the effect of undermining that secrecy. For example, the recommendation to establish a Statutory Licensing Authority indicates a willingness and a need to open up these practices to the scrutiny of the wider public, particularly as it is to include a 'substantial lay representation' (Rec 1 & 2). Other recommendations which would prevent these practices remaining solely in the medical domain include involving other professionals through the provision of

counselling for all parties (Rec 19) and encouraging consultants to explain their decisions about non-treatment (Rec 23). The suggestion on counselling would have the additional benefit of encouraging participants to discuss their actions with others, as would the need for each participant to provide a written consent for their involvement (Recs 20 & 21). The recommendation to maintain a central register of donors removes, almost at a stroke, any clinical resistance to maintaining proper records (Rec 24). Treating the AID child as the legitimate offspring of the recipient woman's husband removes the stigma of illegitimacy which could previously have arisen from being open about the conception (Rec 50). Absolving the semen donor of all parental rights and duties removes his fears about the 'child' having any claims on him and removes the nurturing parents' fears of the donor having any claim on the 'child', all of which were previously inhibiting greater openness (Rec 51). The provision allowing the male recipient to register legally as the father on the birth certificate removes the fear of perjury as a stimulus for secrecy, as does the similar provision defining women who actually give birth as the legal mothers (Recs 53 and 54) (1984:80-86).

The Warnock Committee was not alone in its views, since at least two other sets of very similar recommendations were published in roughly the same period, one by Snowden, Mitchell and Snowden (1983), the other by the British Agencies for Adoption and Fostering (1984). Snowden and his colleagues argued for the need for 'formal recognition of the moral responsibilities required of the individuals providing and using the services' (1983:167), which itself could not but help lead to greater openness. Their recommendations which would have the effect of opening

up the practice included: clarifying the terminology to delineate each adult's role in creating the 'child' (which I referred to in Chapter 1); discouraging the mixing of the husband's and the donor's sperm; requiring practitioners to register and to conform to a code of practice; counselling recipients, including giving them advice on how to inform the 'child' about his/her means of conception; obtaining written consent from the donor's spouse; maintaining non-identifying records of the 'child's' genetic history, which would then be available to recipients and the 'child' and, finally, establishing a review body to survey practice (1983:167-181). The recommendations from BAAF added the need for codes of practice to cover the recruitment, selection and consent, of donors. They also recommended that each clinic should have a panel to select recipients for treatment, so that decisions are not taken by a doctor working on his/her own (1984:13-15). Some BAAF members also liked the suggestion of marking the birth certificate 'by donation', since

it was not incompatible with a plea for greater openness. These members felt (this) ... would enable the parent to share the information with the child and with anyone else they might choose in their own way and in their own time (1984:16).

Therefore the Warnock Committee was not alone in wanting to challenge the secrecy in AID, but as they themselves noted, their objections were largely based on moral and ethical grounds: 'we have little evidence on which to judge this' (1984:21).

This could in turn become grounds then for rejecting their stance. However, others writing at the same time as the Warnock Committee, and since, have provided some evidence to support their views and yet others have challenged the logic on which the case for secrecy has been based. I shall present this material by considering each participant in turn so

that these arguments can be matched against those presented earlier in support of the case for secrecy.

The donor. Perhaps the most powerful argument to challenge the case for secrecy comes from evidence which contradicts the assertions of practitioners that donors require anonymity (and that to remove that anonymity would result in the destruction of third party conceptions altogether). Rowlands conducted in 1983 one of the first objective empirical studies of sperm donors: she discovered that 60% of donors 'would not mind if their AID offspring contacted them after the age of 18, in order to discuss family background and so on' (1984:84). This was despite the fact that at that time under the law in Victoria, Australia where the research was conducted, an AID 'child' might have been able to claim an inheritance from the donor (Singer and Wells, 1984:74). Kovacs and his colleagues report that out of twenty-five donors surveyed by an anonymous questionnaire

eight donors said that they would still donate even if their name was released to AID parents, thirteen said they definitely would not and four were not sure. Twelve of the donors felt that they may donate even if there was a possibility of their AID offspring contacting them when the child becomes a legal adult (1983:74-75)

Similar findings from a small survey convinced the Swedish Insemination Committee of the viability of identifying sperm donors to their offspring, on request (1983:42, p14). Finally, and most recently, the work of Ken Daniels has systematically challenged the assumptions of doctors that donors require anonymity. Reporting the results of a study of Australian sperm donors Daniels observes,

Almost all donors were interested in knowing the outcome of their donation and almost all said they thought about their offspring. Donors were happy to provide non-identifying information and 86 per

cent were happy to provide identifying information.... Seventy-three per cent of the donors said they would still be prepared to donate should it be possible for the children, when 18, to trace their identity. Such findings are in sharp contrast to some of the commonly held views of doctors concerning the importance of anonymity and secrecy (1989:121).

Even less work has been conducted on egg donors than sperm donors, but Leeton and Harman report that 'approximately half' of the thirty four¹² egg donors they surveyed 'would not mind the child contacting them in eighteen years time' (1986:376).

Other aspects of donation thought to require secrecy for the donors' sake can also be challenged. The suggestion that paternity issues in AID could be avoided by anonymity has both a moral response and a technical response. The morality of advocating a disguise to avoid responsibility, as a matter of policy, is clearly highly dubious; the alternative should perhaps be to resolve, not evade the issue. Reilly suggests this is easily done by resort to the technical response:

it would be relatively easy to resolve ... by formulating specific rules to define the legal relations among the child, the parents and the donor (1977:4).

Concerns about financial maintenance and adultery are therefore easily resolved. The embarrassment associated with masturbation does not appear to be adequate grounds for anonymity and secrecy, especially in the light of the donor surveys cited earlier.

Daniels sums up the questions surrounding donor anonymity by reminding us that a bond has been created between the donor and the other participants and though the donor has been discouraged to think about this, 'it is unrealistic to think it can be organised out of existence'; rather we should acknowledge that the donor will have thoughts about the recipients and the 'child' and that these have to be 'responded to'

(1986:346).

Having made one brief mention of egg donation it is worth noting that AID does not necessarily act as a model on these questions: after all, questions of maintenance and masturbation do not arise. Suspect motivation is also unlikely to lie behind calls for secrecy here since the difficulty of donating eggs could be associated with particularly altruistic motives. Questions of maternity could presumably be resolved following Reilly's suggestion, to formulate legal relationships as indeed the Warnock Report did. These points all suggest that the case for anonymity in egg donation is not particularly strong. As for surrogacy however there is so little evidence upon which to draw that it must remain an open issue.

Overall though it would be fair to say that from the donors' point of view the case for secrecy, including anonymity, remains unproven. Indeed there is the chance that, as Annas observes, 'worry about donors ... is probably out of proportion to reality' (1980:338).

The 'child' A challenge can also be mounted against the claim that secrecy benefits the 'child' by disguising his/her illegitimacy and avoiding stigmatisation. The illegitimacy issue is resolvable by Reilly's solution of legal redefinition which has been given further substance by calls to abolish the concept (e.g, Dunstan, 1973) and the eventual removal of distinctions between the rights of legitimate and illegitimate children in the Family Law Reform Act, 1987. Whilst stigma can exist beyond legal changes, it needs to be remembered that as a problem it only arises in AID and embryo donation anyway and again cannot be used as a more general justification for secrecy. As for the alleged

stigma of being identified as a 'test-tube baby', Singer and Wells, in discussing this with reference to in vitro fertilisation, dismiss its impact even on the most famous children like Louise Brown, let alone for later, less famous and indeed less technologically conceived 'children' (1984:51).

Perhaps a stronger concern is the 'child's' possible confusion over his/her parentage, yet it is difficult to understand how secrecy would in fact help this. If the 'child' has been told about the means of conception further information can only help to clarify what role different people have played: such is the logic of the Swedish legislation. Annas takes a similar position in arguing that lying to the 'child' is a

violation of parent-child confidence. There is evidence that AID children do learn the truth ... If AID is seen as a loving act for the child's benefit, there seems no reason to taint the procedure with a lie that could prove extremely destructive to the child. (1980:337).

There are as well other, more pragmatic reasons for telling the 'child': the first to avoid the risk of incest, the second to offset the fear of inheriting a genetic disease. Opinions differ as to just how great the risk of incest actually is: McLaren regards it as small (1973:7); Behrman, as something which increases, the smaller the community in which gamete donation is practiced (1979:620). It is considered sufficient for several writers and for the Warnock Report itself to call for a restriction on the number of times any particular donor is used. Informing the 'child' s/he was conceived from donated gamete(s) alerts them to the risks involved. It would also reassure the 'child' that s/he is not going to inherit a disease that one of his/her parents suffers from, since that of course might have been one of the

original reasons for using donated gametes. This was one of the reasons cited by the couples in Snowden, Mitchell and Snowden for the rare occasion of informing the 'child' about his/her origins (1983:96). Sandler (1979) who has extolled the virtues of secrecy in AID (see Chapter 1) makes an exception in the presence of inherited disease, when he thinks the 'child' should be told s/he cannot possibly inherit the problem.

Openness about surrogacy raises the potential stigma of having been purchased, but with a lack of hard evidence (as with egg and embryo donation), it is just as plausible to suggest a 'child' (who, it should be remembered, is likely to suspect something if an attempt is made to keep a complete secret) would benefit from being given a full explanation of what occurred as it is to assume the benefits of secrecy. The case for secrecy is therefore far from being proved from the 'child's' point of view.

The male recipient Issues of paternity can be resolved for the male recipient, as they can for the male donor, without recourse to secrecy. A redefinition of the legal relationship in AID would resolve this and the related problem of perjury over the birth certificate. This does not, of course, resolve the perhaps more painful problem of infertility but the question then has to be whether it is possible to hide this and if so, at what price, especially if secrecy has been accepted as being against the 'child's' interests. Secrecy of course is no guarantee that jealousy of the donor will disappear and once again, in the absence of valid evidence, it is as plausible to argue that jealousy would diminish as more became known of the donor (the image becomes one of an 'ordinary

bloke' instead of a 'super-stud' for example) as it is to say it would increase.

Perhaps egg donation is easier to accept for the male recipient since no aspersions against his virility can be imagined, though the stress of secrecy should he wish to protect his spouse against 'discovery' will be just as high. Embryo donation on the other hand could be managed in the same way as sperm donation, from his point of view.

Again the case for secrecy is far from watertight, from the male recipient's point of view.

The female recipient The suggestion that the female recipient benefits from secrecy can only be challenged by counter-suggestion since again hard evidence is lacking. The guilt over having a child by a donor, rather than her male partner, is similar to issues of jealousy of donors and fantasies about donors: that if these feelings exist it is just as plausible to argue they will diminish with greater rather than less openness between the different parties. The same potential conflict of interests arises in egg donation as in sperm donation between the parental stigma of infertility and the suffering for the family as a whole with the stress of secrecy and deception. Again it would seem that the weight of moral concern should be in the 'child's' favour.

The couple The asymmetry of the couple's relationship to any child conceived through the use of a donor does not disappear if not disclosed to anyone else, so it is difficult to use this to justify secrecy. Although it clearly is difficult to tell the child about the conception this again has to be weighed against the effects of secrecy and a sense

of being ashamed, which could damage both couple and 'child' (BAAF, 1984:39). Scripts to help with this are available from Donors' Offspring and the article in Nack (see chapter 2) which indicate that even a complex, technical story can be conveyed to the 'child'. The couple's apparent fear of the 'child's' possible transfer of affection to the donor, or even to the idea of a donor, has to be balanced against the strength and closeness of the marriages which is claimed for families using those procedures (Joyce, 1982). If the strength actually depends on the secrecy then it is the verity of the former which requires investigation, rather than justifying the use of the latter to enhance it. Similar arguments can be put forward to counteract those in favour of secrecy in egg and embryo donation.

Ultimately the debate between openness and secrecy from the couple's point of view may come down to balancing their belief in their ability to sustain secrecy against the view of others as to what is in the best interests of the 'child'.

The doctor The possible conflict of interests arises too in the case for secrecy from the doctor's point of view. Annas suggests however that AID should be removed from medicine and put in the genetic counselling arena instead. His view about practitioners is that,

Obsessive concern with self-protection must give way to concern for the child. (1980:339)

The need for self-protection diminishes with the re-definitions recommended by Reilly since suggestions about being an accomplice to adultery, illegitimacy and perjury would no longer be appropriate. As for the legal responsibilities arising from donor selection, medical

negligence and donor anonymity, it is scarcely morally defensible to close practices to outside eyes merely to avoid these. The position on record-keeping has various responses: first if these were adequate and informative the danger of mistakes and thus negligence would decrease; second, the more positive side of that same coin is that practice could improve if genetic monitoring were possible. Thus, within the requirements of their own concerns full record keeping makes sense, as it does in terms of the need for donors, couples and 'children' to be informed if any genetic abnormality occurs. Finally, if the qualifications of any particular practitioner are in question, it is in the interests of the profession as a whole to ensure those are improved but that is only possible through monitoring practice and establishing agreed codes of practice.

Again it is not clear that secrecy as a strategy can be defended as being in the doctor's best interests.

In challenging the strategy of complete secrecy it soon becomes apparent how little of the case is based on hard evidence and how much on simple assertion. This in itself is less surprising since one feature of that secrecy has been the unwillingness to carry out investigations. That means the challenge against secrecy also tends to lack evidence though in being prepared to ask questions some empirical work has resulted, even though the relevant information about procedures other than AID is very thin. Much of the value of the counter-argument lies in the nature of the questions raised, even if a full set of answers is not yet available. This means though that it is as reasonable to place the onus on the established situation of secrecy to prove why that should be

the starting point of practice, as it is to place the onus on the advocates of greater openness to present counter-arguments which are at least as plausible.

It is fair to say about the above arguments that they lend further support to the moral inclination of the members of the Warnock Committee to object to practices of secrecy in AID and other third party conceptions. However, in providing that support, these arguments raise another set of questions, concerning the decision of the Warnock Committee to stop short of recommending complete openness about these procedures and deciding instead to retain what we now know to be one of the central pillars of the strategy of secrecy: anonymity of the third party. Much of the evidence and counter-arguments cited above, especially on the donors themselves and on the 'child', can be read as a challenge not only to a generalised secrecy but also to the need to retain even the degree of control over origins information which is afforded by donor anonymity. Therefore, the case for retaining donor anonymity must itself be subjected to careful examination.

I shall recap briefly on the explanation given in the Warnock Report for why the committee favoured the principle of anonymity of third parties. As a common thread throughout their deliberations, anonymity was thought to protect all parties from 'legal complications' and 'emotional difficulties', without further elaboration of what either of these phrases meant (1984:15). In the specific case of AID, it was argued that anonymity would provide legal protection for the donor, from demands for maintenance for example; it would minimise the donor's invasion into the family and it would ensure a continued supply of sperm donors (1984:25). In the case of egg donation the committee continued to

argue in favour of donor anonymity but acknowledged that 'at present' that might not always be possible and that exceptions to the principle might occur, through the donation of an egg from a friend or a sister (1984:37).

This treatment of the principle of anonymity in the case of egg donation itself suggests some inconsistency in the committee's views, though it is recognised as such in the Report. There are however, other, apparently unnoticed inconsistencies in the Report, concerning the principle of anonymity: inconsistencies which in the light of the arguments and evidence supporting greater openness leave the strategy of the Warnock Committee on handling origins information, open to question.

There are in particular problems with the reasons they cite for choosing anonymity as a general principle and I shall consider each in turn. First the legal protection required for all parties. It is not at all clear to what this refers since it is not explained and since other measures in the report appear to provide all the legal protection that would seem necessary. That is, as we have already seen, the donor is absolved from all parental rights and responsibilities; the couple are legally defined in the appropriate ways as the mother and father; the 'child' is legitimated under Recommendation 50 and finally the doctor is regulated and licensed by the Statutory Licensing Authority. It is not clear that the 'child' and the doctor are even considered to be relevant parties to this part of the principle, given the wording of the paragraph, but even so, their legal protection has been ensured. There does not appear to be any further requirement for legal protection whether from anonymity or any other measures. It is also important to notice another factor: the need for protection which I have cited here

derives primarily from the use of a third party donation, not from the identity of any specific donor. Therefore, on two counts this reason for anonymity is questionable: first, extra protection is not needed since what is needed has been provided by other measures; second, it is not clear what legal protection could be provided by withholding participants' names from each other anyway (Haimes, 1989).

The second reason for anonymity was to protect all parties from 'emotional difficulties'. Again this phrase was unexplained but from what we now know of concerns expressed about gamete donation we might suppose these difficulties to comprise the following: for the donor, concerns about character and motivation and of being known as a donor: for the couple, concerns about being 'exposed' as infertile and as having a third party involved in their marriage; for the 'child', concern about his/her means of conception and feelings of confusion over his/her parentage. However, if these are the concerns (and the discussion in the Report on AID suggest they might be) yet another inconsistency is exposed in the Report, since again each of these concerns derives from the initial fact of having participated in the donation, not from knowledge of the name of any particular participant in that donation process. Alternatively both sets of points might be taken as grounds for keeping the fact of donation secret but elsewhere the committee has committed itself to the need to make that fact known, to the 'child' in particular. That then suggests a strong case for non-anonymity, since it might be argued that names and other details would clarify any confusion felt by the 'child', at least. This, of course, is the position reached by the Swedes.

The only other source of explanation available are the three points

mentioned in relation to the specific case of AID, but the first legal protection for the donor, has already been found wanting. The idea of using anonymity to ensure a supply of donors, was based at the time on mere assertion about donors' preferences rather than objective evidence. The committee appeared unaware of the little evidence to the contrary and they did not question, as the Swedes did, the implications of using as donors men who would only donate if they could be guaranteed anonymity. This was possibly because of the third reason, the apparent fear of the committee that donors would 'invade' the family. This phrase in relation to sperm donation was left completely unexplained but it may provide the clue to understanding why the Warnock Committee, and others, would be unhappy to name donors. I shall therefore turn now to look in more detail at the whole question of the relationship between third party conceptions and the family, in the Warnock Report, to see if this holds the key to explaining why the middle strategy is so important and why therefore it is so apparently difficult to allow complete openness about third party conceptions.

Third party conceptions and the family

The Warnock Committee saw the context in which it was working, as being to do with 'questions of birth and death, of the setting up of families' (1984:2) and 'childlessness and the process of family formation' (1984:5). However, when the committee deliberated the pro's and con's of each treatment, despite being very much on the 'pro' side where gamete donation was concerned, occasionally these discussions would be accompanied by phrases which perhaps indicates some uneasiness: I suggest the phrase that anonymity 'would also have the effect of

minimising the invasion of the third party into the family' (1984:25) is one such example. 'Invasion' is clearly a very strong concept, defined in one dictionary as 'make hostile inroad into, assail, swarm into, encroach on'. The question has to be asked why, if such fears are even hinted at, the treatment is nonetheless provided? The response cannot be that simply 'anything goes' because, although in comparison with the Archbishop's Commission and the Feversham Committee and indeed some of its own contemporaries, this was a 'liberal' committee (accepting all forms of infertility treatments and allowing embryo experimentation), in fact certain possibilities were rejected, such as single parent families, homosexual parents and all forms of surrogacy. Therefore it is necessary to see why gamete donation was permissible, despite these fears of 'invasion', whereas other procedures like surrogacy were not. Such an investigation would not only aid our understanding of the Warnock Committee's strategy for handling openness and secrecy but would also place that strategy within a wider context.

Though the Warnock Committee regarded these technologies as providing family-building opportunities, I would argue that it is clear from the Report that they were not working with a unitary concept of the 'family': rather they were implicitly working with four different models of families which could be produced using these technologies. The models are based around a combination of the technology and the type of person using it: (i) the first model comprises families produced through AIH and IVF, with a married couple's own gametes; (ii) the second model comprises families created by couples using donated gametes; (iii) the third model comprises families created through the use of surrogacy; (iv) the fourth model comprises families created through the use of either donated

gametes or IVF and/or surrogacy, by single men, single women and lesbian or homosexual couples. It is important to note however that these models did not have equal status in the eyes of the committee. It is also important to note that the hierarchy in which the models were apparently viewed was determined as much by the type of family produced as by the method of production, though the emphasis on each of those two factors forms the basis for the difference between each model. For example, the Committee concluded that category (i) combined acceptable forms of treatment and families, remarking about AIH for instance that, 'we ourselves see no moral objection to its practice' (1984:18). This is similar to Singer and Wells' view that IVF with a married couple's own gametes represented 'the simple case' (1984:35). Category (ii) demanded much more time and attention but the committee eventually concluded after a lengthy discussion in the Report that all variations were acceptable, even though in Singer and Wells' terms this was going 'beyond the simple case' (1984:69). Category (iii) was deemed not acceptable, though surrogacy 'presented us with some of the most difficult problems we encountered' (1984:46); category (iv) was also rejected though for different reasons which we shall examine below. Category (ii) families then were in an odd position, being neither accepted without objection, nor rejected outright; they were a mixture of acceptable and problematic. By looking at the full range of reasons the committee gave for their conclusions we can begin to tease out more about the problematic, but ultimately acceptable, aspects of what I shall call families-by-donation. This will involve examining the background to each category of family type.

Families produced by AIH appear to be acceptable to the Committee on

the grounds that they result from 'the intention to bring about the birth of a child and this takes place within the context of a stable relationship' (1984:18). AIH and IVF simply bring together the gametes of the husband and wife so that 'nature's defects ... nature's errors' can be overcome (Wood and Westmore, 1984:97). As was observed in the Report 'for some couples this will be the only method by which they may have a child that is genetically entirely theirs' (1984:32). MacIntyre (1977) would argue that such families conform to dominant notions of the 'normal' family in so far as marriage, sex and reproduction are grouped together within the one unit and that these techniques are seen as merely aiding the mechanics of sexual intercourse.

In stepping around the anomalous category (ii) families for the moment, we can compare the picture of AIH with the view taken by the committee of surrogacy and the category (iii) families, which are rejected outright. All forms of surrogacy were condemned: 'surrogacy for convenience' was 'totally ethically unacceptable' because it is based on the exploitation of another person, in the Committee's view; commercial surrogacy was also regarded as exploitative and indeed even non-commercial surrogacy was unacceptable since it might simply encourage the growth of surrogacy in general. Thus surrogacy agencies should be banned and any professionals involved in establishing a surrogate pregnancy should also be criminally liable. The intention was not to prosecute the private individuals involved in surrogacy however, in order to avoid tainting the 'child's' birth with criminality (1984:46-7).¹³

Families in category (iv) created by single and non-heterosexual people using the technologies were not acceptable to the Committee mostly because they were thought not to be in the resultant 'child's' best

interests, rather than simply because the recipients were unmarried. The committee explicitly rejected marriage as a criterion for access to treatment¹⁴ and in fact produced its own, innovative, definition of 'husband' and 'wife', using them as terms to 'denote a relationship, not a legal status'. The committee also developed its own definition of the word 'couple' using it to mean 'a heterosexual couple living together in a stable relationship' (1984:10). The committee discussed the claims which various types of people could make for being allowed access to treatment and acknowledged that no tests for eligibility existed for fertile couples and individuals; however,

We have considered these arguments, but, nevertheless, we believe that as a general rule it is better for children to be born into a two-parent family, with both father and mother, although we recognise that it is impossible to predict with any certainty how lasting such a relationship will be. (1984:12)

This therefore excludes access to these reproductive procedures by single men, single women and gay couples.

Finally, those families in category (ii) created by couples (as defined above) using gamete donation: the committee regarded AID 'as a legitimate form of treatment' and were concerned that if it were not brought out of its 'legal vacuum' it would still develop but possibly under harmful clandestine circumstances (1984:23). The advantages of AID are that it 'enables couples to have a child whom they can bring up as their own and who is biologically the wife's' (1984:22). It is a simple procedure and the result of its deployment

is a child very much wanted: a couple may have had to endure years of waiting and will consequently cherish the child. The fact that the couple share the experience of pregnancy, in the same way as any other couple does, may strengthen their relationships as joint parents. Many of the submissions made to the Inquiry were strongly in favour of AID. (1984:22-3)

Nonetheless the committee then devoted the next four and a half pages to outlining the 'Principles of AID provision and consequential legal changes', which covered legitimacy, the recruitment and screening of donors, the provision of information about the donor to the 'child', the removal of donors' parental rights, the written consent of all parties, the registration of the husband as the father, the limits on the number of donations per donor, praise for the French donor recruitment system, and finally advocating openness about AID. A great deal of work was involved in making the treatment acceptable. However, having invested that time and effort into AID, the committee moved with relative ease to establish the acceptability of egg donation and embryo donation. The arguments in favour of egg donation were that,

For some couples egg donation provides the only chance of their having a child which the woman can carry to term, and which is the genetic child of her husband. The couple, it is argued, experience the pregnancy as other couples do, and for this reason egg donation has an advantage over AID, in that both partners contribute to the birth of the child. (1984:36)

The committee concluded 'that since we have accepted AID and IVF it would be illogical not to accept egg donation' providing all precautions, including counselling about the surgical risks of donation, were properly taken into account. Also egg donation would be subject to similar principles as those laid out for AID. Two additional matters were raised in connection with egg donation, though neither was seen as grounds for objecting to the procedure: first, the question of anonymity was modified to take account of the problems of storing eggs and hence providing for the possibility of acquiring an egg from a sister or a friend; second, the fact that egg donation produced the first occasion on which the genetic mother would be a different person to the carrying/birthing

mother. The Committee dealt with the legal implications of both points by recommending that the carrying mother should be 'regarded in law as the mother of that child' (1984:38) although they gave no reason for their decision.

Embryo donation was also accepted by the committee although they regarded it as 'probably the least satisfactory form of donation' but one likely to occur only very rarely (1984:40). The reasons why they considered it unsatisfactory were not specified. The arguments in favour of embryo donation however were that,

In the evidence it was suggested that embryo donation constituted a form of pre-natal adoption, with the advantage over normal adoption that the couple share the experience of pregnancy and childbirth, and, it is further argued, the mother and child experience bonding during pregnancy. (1984:40)

The same provisions covering legal parentage and other aspects raised in egg and sperm donation were extended to cover embryo donation too.

Having seen the Committee's reasons (some more explicit than others) for finding the first category of family acceptable, the third and fourth categories rejectable, and the second category 'acceptable but problematic', it is now possible to identify those elements which seem to satisfy their requirements for an acceptable family, as created by these technologies. These elements are:

- (a) placing value on the idea of a family;
- (b) being motivated by love rather than by money, jealousy, pride, anxiety or any other 'negative' emotions;
- (c) a stable environment;
- (d) two heterosexual parents;
- (e) a genetic link to the child;
- (f) the experience of pregnancy and childbirth.

Each category of family can be evaluated against these criteria. Clearly the committee's view is that the family created by AIH or IVF with the couple's own gametes, is likely to satisfy all these aspects. For instance, the couple is prepared to go to great emotional and financial costs to have a family which indicates the high value they place on family life. Their love for each other provides the motivation to go through all this, and, as a married couple they are as likely as anyone to provide a stable environment. The couple is presumed to be heterosexual if married. By definition, both will have a genetic link to the resultant 'child' and the female partner will experience the pregnancy and give birth.

In contrast, the couple choosing surrogacy as a means to have a child are not seen by the committee as fulfilling all these criteria. Their desire to have a family is clearly very strong but they appear willing to introduce the element of commerce which clouds the purity of that desire. In addition, whilst they are likely to provide a stable heterosexual environment for their family, this can be threatened by the existence of a third parent who could make a major claim on the 'child', 'having borne and given birth to it. In terms of the genetic link to the 'child', this would vary with the different types of surrogacy: under the use of genetic surrogacy there would be a 50% genetic link between the nurturing parents and 'child' since the husband of the commissioning couple would provide the sperm. In surrogacy-for-convenience which by definition involves gestatory surrogacy, both commissioning parents would have a genetic link to the 'child' but in surrogacy with embryo donation, neither would have such a link. There is no certainty therefore that surrogacy per se would fulfill the criterion of a genetic link. Even

less certain in surrogacy is the status accorded to the experience of pregnancy and of childbirth.

Surrogacy involves a woman having a child and then being prepared to surrender it, to another woman who has not experienced pregnancy and childbirth, both of which raise questions about the value asserted earlier in the Report that pregnancy and birth add to the quality of the parenting experience. In addition, by those actions, the very idea of 'motherhood' and 'mothering' is undermined which in turn undermines the idea of 'family' which has 'motherhood',¹⁵ as one of its central concepts.

it is argued that the relationship between mother and child is itself distorted by surrogacy (Warnock, 1984:45).

The notion of 'distortion' presumes a norm from which surrogacy is a deviation and therefore the values embodied in a family created by a couple commissioning a surrogate pregnancy have to be questioned. (On the other hand the case against surrogacy was not fully established, hence the dissenting report by two members of the committee; there is clearly a tension between the strongly felt desire for a family and the risks that this entails for 'motherhood'.)

Again, in the eyes of the committee, the families in category (iv) with single and/or homosexual parents will fail to satisfy most of these criteria. Such applicants for treatment seem to be regarded by the committee as being less interested in having children in order to establish a family, than in having children in order to establish the rights to do so. They are depicted as asserting individualist, rather than family, values (1984:11). The committee's requirement of two heterosexual parents cannot be fulfilled by either single or homosexual

applicants and the stability of a single parent household is questioned by implication. In terms of the two final criteria, the single woman or lesbian couple would be able to experience pregnancy and birth, as well as having a 50% genetic link to the 'child', but the single man or homosexual couple would only have a partial genetic link. However, it is noticeable that this particular aspect of genetic and biological links was given little overt consideration by the committee when it discussed access for single or homosexual applicants, despite being frequently mentioned in the other categories.

Finally, the committee's view of category (ii) families-by-donation appears to be that, like the AIH family, these couples clearly value having a family so highly that they are prepared to go to these lengths to establish one. The motivation of love is self-evident as the infertile partner is willing for, or even encouraging, his/her spouse to become a genetic parent even though he/she cannot. As a married or cohabiting couple they are expected within the committee's definition, to be able to provide a stable heterosexual environment for the 'child', even though the threat of 'invasion' by the donor has to be acknowledged, as does the presence of the donor as a third parent. It is also the case that the genetic link between the nurturing parents and 'child' would be only 50% maximum, but the experience of pregnancy and childbirth is proffered by the committee as a partial compensation for that, particularly in embryo donation where there is no genetic link. Families-by-donation therefore satisfy some but not all the criteria considered desirable by the committee.¹⁶

It is possible to summarise what has been said so far by using an abbreviated set of criteria and applying them to the four categories of

families. First, to abbreviate the six criteria into more manageable terms: it is possible to argue that views on the value of family life and on the motivation to establish a family (criteria a + b) together invoke the ideological aspects of 'familyness'; similarly, references to the stability to be derived from a certain number of parents of specified sexuality (criteria c and d) essentially address the structural aspects of a family, and, finally, concern with the genetic link between family members and with the importance of pregnancy and childbirth (criteria e and f) draw on assumptions about the biological aspects of family life.¹⁷ In applying these abbreviated criteria to the four categories of families created through the use of the reproductive technologies, we can see that: families created through AIH and IVF using the couple's own gametes satisfy all three elements of the desired family type, ideological, structural and biological; families-by-surrogacy satisfy none completely; single parent or homosexual families again satisfy none completely; families-by-donation satisfy the ideological elements, part of the structural elements (the third parent means they do not satisfy this element completely) and part of the biological elements (the lack of a 100% genetic relationship means they do not satisfy this element completely). This exercise shows even more starkly therefore the anomalous position of families-by-donation. What is it, however, that persuades the committee or enables the committee to persuade others, to bring families-by-donation, which are clearly in a tenuous, middle position, fully into the 'accepted' category, rather than push them into the 'rejected' category? To answer this, one has to ask what it is that families-by-donation have in common with families-by-couples-own-gametes and how it is they both differ from the homosexual/single person-family

and the families-by-surrogacy? When comparing families-by-donation and families-by-couples-own-gametes with the homosexual/single person families, the former have in common their ideological conformity and the visibility of their apparent structural conformity. The 'problem' of homosexual/single parent-families is not just that they threaten the ideology of the conventional family but also that they do so in a highly visible way. The question of their biological status and of the presence of the donor affecting the structure of the family are not even raised. this suggests that a hierarchy in operating whereby ideological and structural criteria are deemed more important than biological: failure to satisfy the first two means that questions about the third are redundant.

Comparing the two former families with families-by-surrogacy is more complex because it will be apparent by now that surrogacy, as the committee admitted, was an extremely difficult matter for them. In this comparison, the visibility of the family structure is apparently less of a problem because the couple commissioning a surrogate, once they have acquired the child, appears to be just like any other family. However, one critical difference is that no pregnancy has been experienced by the couple using surrogacy and, of course, the value of a pregnancy in this context is not just the bonding elements, but that it too is a highly visible aspect of becoming and being a family. Also in terms of visibility the surrogate's pregnancy and then failure to acquire a baby is also highly visible and has to be explained. Therefore, visibility is a consideration in this comparison but, in fact, what really seems to have persuaded the Committee to reject surrogacy was the idea of a woman having a baby and then giving it away, possibly for love (but they would have to ask if even that could justify giving away a child), more

probably for money. On ideological grounds alone such a practice had to be rejected by a committee which had already established the importance of pregnancy and motherhood to family life. Again a hierarchy between the evaluative criteria is apparent, in which again ideology supercedes structure and biology. This is particularly evident in the committee's rejection of surrogacy-for-convenience, which would produce a family visibly normal in terms of structure and with a full genetic link between nurturing parents and 'child', but produced at the cost of further undermining the concept of motherhood.

We need to now ask what it is that families-by-donation have in common with families-by-couples-own-gametes that they are both deemed acceptable. The ideological similarity has already been established and the structural elements of the two family types appear to be the same. However the biological composition of the two family types differ, but again, crucially, they are not seen to differ. In other words, the family-by-donation can 'pass' as a family-by-couples-own-gametes; that is, it can look like an 'ordinary family'. It is the invisibility of the donor and of the incomplete genetic links, coupled with the visibility of the structure of the resultant family and of the process of becoming that family (i.e. the pregnancy), couched in appropriate ideological values, which make the outcome of a family-by-donation acceptable to the committee.¹⁸ Again ideology ranks above biology.¹⁹

Paradoxically though, if the ability to pass as an 'ordinary family' is both important to the couple and is seen to depend simply on structural visibility, that could sound as though it were the basis for arguing for complete secrecy about the use of gamete donation, whereas it has already been established that the Warnock Committee favoured more

openness about its use. However, part of that call for greater openness is based on the argument that secrecy does not work as a policy and partly on the idea that it is bad for a 'child' when it is tried. The 'child' of course has a particular status in the pro-family ideology, both as being the motivation for establishing and sustaining a family and also in the idea that in terms of policies on family-life the 'child's' interests should be paramount.²⁰ Therefore, rather than take the ability to pass as an apparently 'ordinary family' as an excuse for secrecy (especially since the ability to pass is considerably weaker within the immediate family, i.e. between parents and 'child', if we are to believe the idea that the 'child' is likely to suspect something is wrong) the advice from the committee is to do the opposite; that is, to tell the 'child'. Thus they indirectly celebrate the pro-family ideology further by being seen as a family with 'no secrets'.²¹ Whilst the family then has to be prepared for problems as a consequence of having informed the 'child' of his/her conception, the hope is that being such an open and intimate family, it will stick together to confront these problems. In this way the 'child' will come to regard his/her 'social' parents as his/her 'real' parents: the 'realness' being evaluated in terms of their social caring rather than simply through a genetic connection.

Whilst this is clearly an elaboration on the basis of few explicitly expressed ideas in the Report, I suggest that it is a plausible explanation of the policy of being open about the means of the 'child's' conception, whilst retaining donor anonymity. By being open about the means of conception to the 'child', the very fact of the use and existence of the donor is paradoxically contained within the family since

any problems his/her existence brings are seen to come from 'outsiders' and are then dealt with, within the bosom of the family. Thus telling the 'child' is clearly a test for the family but it is one they are expected to pass, given their ideological and structural strengths. Not only that but the very fact that they do 'pass' would provide yet further confirmation of those very strengths. I would suggest therefore that the committee provides various mechanisms which help contain the experience of donation within the family, which then have the additional effect of actually keeping the donor out of the family. First the 'child' is attached, without doubt, to the family by being defined as legitimate and by defining who counts as the 'real' parent in the donation procedure. Second, the donor is detached from the family, by remaining unnamed, by having no rights or responsibilities towards the 'child' and by having no information about the recipients or the 'child'. As Smart (1987b) argues, the biological link between the donor and the 'child' is overridden in favour of attaching the 'child', ideologically and legally to the social father in the two-parent family unit. Thus moves which could be interpreted as encouraging greater openness about gamete donation in fact serve to enfold the 'child' within the family by providing protection against the consequences of that openness.

On the 'rare occasions' when the Warnock Report envisaged a known donor being used and when, therefore, anonymity would not be possible (between the recipients and donor at least), it was assumed that the donor would be either a sibling or possibly 'a close friend' (1984:15; 25; 37). S/he would not be just anybody the potential recipients happened to know. This suggestion can be interpreted as resting upon what Barrett and McIntosh have identified as 'the family as the site of

altruism' (1982:15): that is, the idea that members of proper families act towards each other on the basis of love and generosity.²²

In other words this analysis suggests that the middle strategy of the Warnock Committee of combining openness with donor anonymity is based on an ideological notion of normal family life. This ideology rests upon assumptions about the structural and biological constitution of that family, but can at the same time override such considerations as long as the visibility and intrusion of the non-conforming structural and biological features can be contained in some way. Therefore the prescription to be open about the 'child's' conception reinforces the ideological notions of family life, whilst the anonymity of the donor contains the impact of the structural and biological non-conformity by symbolically reinforcing the legal provisions attaching the 'child' to the nurturing parents and detaching the 'child' from the third party. In a sense, therefore, anonymity also acts as a reward to the nurturing parents for their openness, since it prevents any possibility of the donor invading their family, either directly, or even indirectly as a result of the 'child' tracing him/her and thereby forming an attachment. Therefore the concept of 'invasion' is important to understanding the Warnock Committee's strategy, but can only be fully understood if the presumptions it contains regarding notions of the family and its ideological, biological and structural features, are fully explicated.

Conclusion

This chapter has been an attempt to explain the three strategies for handling information about the origins of a 'child' conceived with the help of a third party. I focussed in particular on the middle strategy

of combining openness about the conception with anonymity of the donor. I argued that a case for greater openness against the prevailing strategy of complete secrecy could be supported, but that in substantiating that case, the reasons for then retaining donor anonymity become unclear. In particular there appeared to be inconsistencies in the explanations given in the Warnock Report since these seemed to address problems to do with the fact of donation rather than with the identity of the donor.

However, after a more detailed examination of the Report I concluded that donor anonymity is a device to allow donations to continue, not because of the protection it affords to the donor (or any other individual for that matter) but rather because of the protection it affords the resultant nurturing family, provided that family conforms to other ideological precepts. This protection derives from the way in which anonymity lends support to the legal measures to attach the 'child' to the family and to detach him/her from the donor.

However, there are certain problems with this explanation which could benefit from a more detailed investigation than is possible from simply reading the Report. First, the explanation depends on attributing to the committee certain ideological perspectives, particularly about the family and assumes the relative importance of ideological, biological and structural factors in their view of family life. In proffering an explanation which appears to have some external coherence there is a danger that I am attributing to the members of the committee a degree of clarity and unity which might not be justified in dealing with such a complex area. Therefore, I found it useful to explore these explanations in greater detail in interviews with the individual members themselves. I present the data from these interviews in the next two chapters. In

conducting these interviews I was then also able to explore in greater detail other loose strands from the explanations offered here, namely: (i) the case of surrogacy, which I have tended to discuss as if it were another type of third party conception, but it was clearly not seen that way in the Warnock Report; it therefore merits further discussion in the light of the material discussed hitherto.

(ii) the use of anonymity to protect the resultant family suggests that purely legal provisions for ascribing parentage are perhaps deemed not quite adequate, which in turn suggests other, perhaps biological factors, have at least residual significance (Achilles, 1986). This, too, requires further discussion to try to understand the nature of that significance.

I explore these and related issues in the next two chapters.

Notes

- 1 A review of our adoption study (Haimés and Timms, 1985) and a detailed reading of the Swedish legislation on donor identification suggest that complete openness about all aspects of origins is unlikely (see Haimés 1988a) so even the use of the term here is somewhat relative.
- 2 This conflation of the terms 'secrecy' and 'anonymity' is deliberate since anonymity can still count as information (i.e. the name) being kept secret. This will be explored later in this chapter.
- 3 I shall employ the present tense when describing secrecy practices since it is far from clear that they have mostly disappeared.
- 4 A point observed by Humphrey (1984:12).
- 5 See also Reilly (1977:193), McLaren (1973:6), the Royal College of Obstetricians and Gynaecologists (1983:6) and British Agencies for Adoption and Fostering (1984:13).
- 6 See for example Fitzgerald (1975:6), Annas (1980), Matthews (1980:186).
- 7 This places the donor in a 'Groucho Marx' position: if he is the sort of person prepared to donate sperm he must be exactly the sort of person unsuitable to donate. It also suggests the he might be considered an unsuitable person to form a relationship with the resultant 'child'.
- 8 Such was the Archbishop's Commission's concern about masturbation that they saw some advantage (were they to support the use of AID) to the practice of collecting semen from the donor's wife's vaginal pool after intercourse (1948:15).
- 9 This phrase was used to describe AID children long before it became a common term to describe children conceived through IVF (Guttmacher, 1969:566).
- 10 Joyce identifies only four main parties by combining the male and female recipient into the 'couple' (1982:2) but since it is a major contention of Snowden's work that secrecy benefits the male recipient most of all it is clearly preferable to examine that contention by separating the partners. Joyce, in referring to the 'couple' in fact only considers the couple and the male recipient; he has nothing to say about the female recipient (1982:4-8).
- 11 The term 'fantasy' is rather loaded and is used in similar ways in adoption to refer to the thoughts adoptees might have about their natural parents. To 'think' about something is alright but to fantasize implies going beyond the realms of reality and tends to be used as a criticism of the individual, without substantiation by reference to the contents of those thoughts.

- 12 Many of these studies involve only small numbers of respondents but presumably any empirical investigation has some advantage over blind assertion.
- 13 A dissenting report, signed by two members of the committee, voiced disagreement with a total ban on surrogacy. The fact that this had to go into a minority report is an indication of the strength of the disagreement since other, presumably more minor disagreements, were included in the main body of the Report.
- 14 And were heavily criticised for so doing; see, for example, Phipps, 'The second great difficulty in the Report is its unwillingness to defend the institution of marriage' (1985:12).
- 15 See for example Spallone who argues that a surrogate surrendering a child 'challenges the notion of the biological mother-child bond' and 'advertises that the nature of motherhood and kinship, the very foundation of the family, is more complex and contradictory than traditional thinking allows' (1987:175). Robertson argues that the nine-month gestation creates a bond and hence a claim that does not exist in the more 'discrete and limited' case of gamete donation (1983b:34).
- 16 Grobstein and Flower (1985) argue that gamete donation is both pro- and anti-family for exactly this reason: the motivation to use these procedures supports the idea of the family, but the consequence of using them leads to questions about traditional family relationships.
- 17 Clearly these are not absolutely discrete concepts of family life: certain ideological claims (eg phrases like 'the traditional family') assume certain structural and biological relationships. Barrett and McIntosh remark on the strength of 'the family as an ideology' and on the extent to which this is also 'steeped in hetero sexism' (1982:8-9). Hanscombe (1983) provides a challenge to assumptions about homosexual parenting.
- 18 And of course to countless couples and practitioners.
- 19 The clearest example of this perhaps occurs when the committee tries to define 'motherhood' in egg and embryo donation: their view was that the carrying mother should count as the legal mother. This however would mean in cases of surrogacy that the 'child' would be legally attached to the surrogate and not the commissioning couple, even when the commissioning mother has provided the egg and when she then receives and raises the child: that 'child' might then be at a legal disadvantage. The committee try to overcome this by saying legislation 'should be sufficiently widely drawn to cover any such case ... (and) to make the adoption laws more flexible so as to enable the genetic mother to adopt' (1984:47). Glover observes, without any explanation or acknowledgement of the wider significance of what he is saying, 'we pick and choose among the biological criteria because we want to designate the couple who intend to bring up the child as the parents, rather than the donor or the surrogate' (1989:57). I would argue this is the principle of placing the ideological value of family life over the biological reality which might otherwise subvert the ideology. Barrett and McIntosh claim 'an ideologically

correct representation of parenthood and the family is seen as far more important for successful child-rearing than biological ties of kinship ... we now attach less weight to families themselves but much more to an ideology of familialism'. (1982:25-26).

- 20 See for example Children Act, 1975.
- 21 See for example, Pincus and Dare (1978).
- 22 So for example, Craft et al argue for using both known and anonymous donors, on the grounds that patients who prefer to use known donors 'feel strongly that there are advantages in a much wanted child being brought up in a wider family context' (1987:1148). In the same issue of the Lancet, an editorial argues the opposite, because, 'the risk of emotional disturbance in the child, and conflict in the family, may be high when anonymity is impossible and the genetic mother is also an aunt However much one sympathises with the plight of childless women or applauds the altruism of their more fortunate sisters, ovum donation by a close relative is not a solution to be encouraged'. (1987:1126). What is significant to note for our interests is the way both sides invoke assumptions about the (normal) family to support their case: the former sees that family as being able to absorb the 'child', the latter sees the potential for disturbance in the (presumably) stable family which existed prior to the sibling donation.

CHAPTER 4

THE VIEW FROM WARNOCK, I : TALKING ABOUT THE NEW REPRODUCTIVE TECHNOLOGIES

Introduction

In the previous chapter I presented an explanation for the Warnock Report's potentially contradictory strategy of advocating openness about the means of the 'child's' conception whilst retaining donor anonymity. My central argument, based on an analysis of the Report, was that anonymity was a strategy based on certain normative ideas and values concerning the 'family' and 'familyness'. However, this explanation depends on attributing certain intentions and views to those responsible for producing the Report, whilst, at the same time, glossing over the detailed reasoning through which members reached their decisions. There is a danger therefore that such a neatly packaged explanation disguises rather than reveals the repertoire of concerns deemed to be relevant to this issue by the committee members themselves. Therefore I decided to investigate the validity of my analysis further, by conducting a series of in-depth, semi-structured interviews with the members of the committee to try to gain a sense of how they worked their way through the puzzles they discovered when trying to make policy recommendations.¹ This subjects the analysis in Chapter 3 to a more rigorous examination on three levels: the methodological, the substantive and the theoretical. On a methodological level it will be possible to detect to what extent I have imposed an 'outsider's' explanation on a situation which may be more complex than at first appears when explained by the 'insiders' on the committee; on the substantive level I can gain clarification on those aspects of the explanations (both my own and those within the Report)

which remain unclear, such as surrogacy; on the theoretical level I can gain further insight into the broader conceptual issues, such as the role of biology versus ideology in family life, around which I based my earlier analysis.

Seven sets of questions arise directly from that analysis which can be investigated further through the interviews. They are:

- (i) to what extent did committee members hold the view that the different applications of the technologies had varying levels of acceptability? That is, a couple using their own gametes was unproblematic, gamete donation was problematic but acceptable, surrogacy and gay or single parents were unacceptable?
- (ii) did members regard surrogacy as a 'threat to motherhood'?
- (iii) what view did members hold of the gamete donor?
- (iv) what views did members hold of the 'child' created through third party conceptions?
- (v) why did members favour donor anonymity?
- (vi) what views did members hold of 'the family', ideologically, structurally and biologically?
- (vii) to what extent does this added insight help to explain their views on the deployment of the technologies and on the management of origins information?

The data in this chapter address the first three questions and indicate some clues to the answers to the last four, which will then be addressed more fully in the next chapter.

In a sense these interviews² represent an attempt to peel back another layer from the Warnock Report to try to get closer to the ways in which members of the committee perceived the issues they were

discussing. Reports to governments from committees such as this require a degree of certainty and coherence which might not adequately convey how members experienced the process of reaching the views expressed in the Report. Part of the purpose of the interviews was to get away from the tidy language of the Report to gain a sense of how members thought about these issues in 'commonsense' terms, how they struggled with them and how they expressed them in everyday language. Therefore, this chapter and the next make extensive use of verbatim quotations from the interviews to convey members' expression of their conceptual depiction of these issues, when reflecting on their own, and other members' reasoning. A brief reference was made in the Report to the diversity of views, as well as to changes and modifications of views during the lifecourse of the committee (1984:1) though there is little presentation of this other than in the formal expressions of dissent. Therefore the interviews are useful too in showing at least some of that diversity of opinion, as well as conveying the strength with which some of those opinions were held. Overall, the interviews provide further insight into how these complex issues were discussed, argued over, explained, justified, defended and elaborated by members as they went about their task of making policy recommendations to government.³

At the same time, it is important to emphasise that my interests in conducting these interviews were still fairly narrow, in so far as I concentrated on trying to clarify members' views on the new reproductive technologies and the management of information about the 'child's' origins: I was not conducting a committee study in the conventional social policy sense.⁴ Therefore, whilst I asked members for background information on how the committee worked and how they regarded their task,

this was very much a scene-setting exercise, rather than an attempt to conduct a detailed analysis of the committee procedures. That would be an interesting study to conduct, but would demand a thesis of its own.

The rest of this chapter is divided into three sections: in the first I present briefly, some of the above-mentioned background information to provide a sense of how members approached their task; then I present in more detail the members' views of the different technologies and the use of third party conceptions; in the third section I try to draw together the different threads of this chapter, which will then provide the context for a consideration of the more abstract issues in the next chapter.

Participating in the Committee's Tasks

At the start of the interviews I asked members about their selection for and participation in the committee, partly to provide an easy anecdotal entry to the interview and partly to get an overall sense of what the committee was like. This 'scene-setting' helps the interpretation of members' responses to later questions and therefore I shall present a brief overview of the main points here.⁵

At least seven members expressed surprise at being selected to participate in the committee; one reported this response when first approached:

'I first asked them, "what is in vitro fertilisation?"' (08/1)⁶
and another said

'I said, "I think you must have made a mistake, I don't really know very much about it"' (07/4)

but, on the whole, members selected what they took to be relevant if often isolated aspects of their biographies to explain their inclusion on the committee. For most this did not include a background in the new reproductive technologies: three members identified themselves as having had substantial previous involvement; three declared themselves as knowing 'nothing about it at all' and nine expressed varying degrees of awareness and previous knowledge but did not consider themselves experts. Nor did they consider themselves to have been selected in order to represent any identifiable interests, though one member did find she assumed a particular role as meetings progressed:

'I found myself very often saying, "But hi, look, there are people who are lesbians, there are people who are living together and aren't married. Look, there are people who are homosexual, there are people who are -", you know. Somehow there were a lot of areas that would have been left out and possibly were left out, because of the composition of the committee and it was odd finding myself in that position with that committee.' (05/3-4)

Most other members did not feel so strongly about the overall composition of the committee. For example one said,

'I couldn't have thought of a more suitable group. I think it was quite interesting that ... we were divided more or less 50-50 between scientists and non-scientists; we were divided not very far away from 50-50 male and female ... we had some of the ethnic minority aspects, which of course were terribly important. So I think we were pretty well covered in all directions.' (06/4-5)

Nonetheless, various members who felt that overall the membership was reasonable, still expressed some reservations. One member reported that he had made it a condition of participating that 'the committee should be at least 50% women and it was, so I was prepared to join on that basis' (in fact, out of the sixteen members, seven were female). Another reflected on criticisms from feminists:

'they dismissed it as establishment fuddy-duddy in its composition and that is a valid criticism in a sense. I mean I don't think there was any one person under 40, it was mainly middle-aged, some quite elderly on it (laughing)' (03/8)

On the other hand, another member pointed out that three of the sixteen members were childless, 'higher than the national average' (07/11) and 'from the point of view of talking to people I emphasize that because I think at least you know we were a committee who could appreciate the problems.' (07/12).

The lack of 'an ordinary member of the public' concerned some (10/6; 14/6) although there is a question in several people's minds as to who counted as the 'lay members' on the committee. Some members defined this as anyone without a medical background (possibly eight members), others as members without a scientific background (possibly seven members), others as members without a medical or legal background (possibly five members), yet others as members without a professional background (possibly no members, or perhaps two members if academics are not included in that category). It is possible though that the real concern felt by some members was not so much the lack of lay members, as

'I did think we were top heavy in medical people and I think this is partly why the emphasis in the Report is on the needs of the mother, as opposed to the needs of the child.' (07/5)

Though this was equally strongly refuted:

'Well it certainly wasn't dominated by scientists and clinicians, there was only one scientist with relevant scientific expertise' (09/3)

Members generally felt themselves to be working under pressure to meet a two-year deadline; it was not, in the words of one member, 'one of those sort of cosy committees' where people try to help others understand why they hold certain views. This, he felt, had a detrimental effect on discussions because,

'I do think on a matter very much to do with personal morality it was very difficult to get to the bottom of why people said certain things when you weren't quite sure who they were' (11/31-2).

He and several others felt that this did not make the topic of infertility any easier to discuss, especially as the apparent distance between members meant that it remained unclear whether this was the cause of three members' childlessness.

Whilst members' attitudes to their task varied from, 'it was a tremendous challenge and a tremendous privilege' (10/3) to 'I found it very difficult to get steamed up about any of these things' (03/18), many of the aspects of working on the Warnock Committee are summed up in the following:

'I think if you don't understand the English way of life, you don't understand these kinds of committees. I mean, it was a very English thing The idea was that you bring in a group of people with different kinds of expertise who are nevertheless there not to sell their own expertise or sell particular ideologies, in any concerted way, but are there to perform a public service, of looking at this phenomenon from the point of view of expertise and from the point of view of common sense. And then thereafter to do what they were asked to do, which of course was mainly, as a lot of people failed to remember when they read Warnock, they were asked to present material with a view to legislation which of course ... modifies the way you deal with things and the kinds of conclusions which you reach. We weren't simply there to make a series of moral or social judgements about the issues under concern, you were there to see how these could be put into legal form. So I think by that standard, you could quibble about this or that and say one sector wasn't adequately represented but I think by and large it was a reasonable choice, given those presuppositions ... with enough diversity of outlook of various kinds to make sure that argument was engendered on the commission, which was the most important thing. Nothing was allowed to go through without some consideration, though not all of that is going to appear in the Final Report. So I think I have a sort of slightly old-fashioned English view that it isn't such a bad way of doing things after all.' (12/5-6)

As the above quote suggests, not all aspects of working on the Warnock Committee appear in the Report and therefore to understand that Report it is useful to have at least a glimpse of the variety of opinions and assumptions which existed in the committee. The data presented so far provide a useful background for understanding the committee's handling of

the issues surrounding the new reproductive technologies, which we can now examine in detail in the next sections.

Talking about the New Reproductive Technologies

I conducted the interviews with the working hypotheses of the previous chapter in mind, but I used these as a way to stimulate discussion on the topics rather than as a set of pre-formulated questions, as I was keen for the interviewees to develop the themes along the lines most important to them, and to express them in their own terms (see Methodology). It is only by these means that it is possible to see how individuals construct their understanding of these issues. This flexibility allowed some testing of the hypotheses as well as the emergence of other previously unconsidered, themes and hypotheses. I tended to initiate discussion on these technologies by following the order in which they appeared in the Report. This had the advantage of allowing members to start on familiar territory but one disadvantage to this approach was that it allowed less opportunity to explore the assumptions behind that ordering and to discuss alternative approaches which the committee might have taken. This was touched on by some members but not explored in any great depth. However, in terms of the working hypotheses this ordering was significant (for example the move from the 'simple cases' to increasingly complex cases) so I felt the balance of advantage lay in the approach adopted. I shall therefore present the data in individual sections for each procedure, beginning however with two broader sections, one on the appropriateness of treating infertility and one on the question of access to these procedures. In each section I shall present the full range of what was said, then in the

final part of the chapter, I shall review the questions from Chapter 3 in the light of these data. A recurrent feature in many of the sections is a distinction which can be drawn between data which refer to the way a topic was discussed by the committee and data which reflect the individual's own views.

(1) Infertility and the appropriateness of treatment.⁷

The Report notes the level of ignorance 'in the past' about infertility and expresses surprise at the current lack of accurate statistics on its prevalence; it made mention of the lack of services for treating infertility in men (Warnock, 1984:8;13). Some of this ignorance was reflected within the committee membership. We have already seen that some members were surprised at their selection, given their ignorance of the new technologies, but for some this ignorance had extended to the topic of infertility itself. Several mentioned that they had given it very little thought prior to joining the committee and attributed this to a lack of personal difficulty (06/7; 11/IN⁸ 10/13). The idea of male infertility was a surprise to at least one member.

'I thought the vast majority of infertile marriages were the fault, in quotes, of the woman'. (03/14)

This was the only member to use the language of 'blame' in relation to infertility but was conscious of doing so:

'Yes, I don't know why there is this pejorative taint ... but people do use these expressions ... I think there must be a feeling of guilt as far as some men in particular are concerned'. (03/15)

His general view on the question of infertility was:

'I see it as being essentially ... a minority matter in the population and therefore not terribly important from the point of view of legislation'. (03/2).

The majority of the committee did not appear to agree, as became evident

when I asked members if they felt it was appropriate to try to treat infertility. The Report said that arguments had been put both for and against treatment and in concluding 'that infertility is a condition meriting treatment ' (1984:10) arguments citing over-population, interference with nature and the lack of priority were rejected. In discussing this with committee members two reported that this particular aspect had been discussed at some length (07/10) and in considerable detail (06/12), which suggests that it was not a particularly easy conclusion to reach. This view was not wholly supported by others, who acknowledged that it certainly was a question that had to be discussed (01/1) but that, on the whole,

'We were all in agreement that infertility is a malfunction of a part of a body If a treatment is available, treatment should be provided. On that there was no difference of opinion at all'. (08/4)

One member said there was only one dissenting voice (01/9) and it was perhaps that person who still felt strongly enough to say during the research interview,

'I felt very strongly on this issue because one keeps seeing all these poor people with hips and dragging around with pelvic floor repairs and poor old ladies with their feet (laughs) and one wonders which is more important?' (07/10)

A distinction therefore has to be drawn between how the matter was discussed on the committee, what was recorded in the Report and third, how members expressed their views during the interview. This suggests that though members were prepared to record their agreement, as a committee, to treating infertility this did not eliminate all individual reservations. For example, one argued that treatment was a 'good and legitimate want' but not a right (01/1; 06/9); others raised the question of relative priorities, even if not as strongly as the member quoted

above (04/8; 12/12;) and others suggested that some infertile couples perhaps needed to accept their infertility (07/10; 02/17):

'I think really some couples just need to accept the fact of their infertility and rearrange their life. And it's quite interesting how they'll do that' (02/17).

The question then of how appropriate it is to treat infertility was not easily answered by members since on reflection it was not amenable to absolute answers of 'yes' or 'no'. One member perhaps summed up the general view on the committee with the words:

'I feel that it's more a question that you want to do what can be done to help. But how far down that line you go is very difficult'. (06/9)

The question of 'how far can you go?' turned out to be central to many members' reasoning on these issues, even if it was not explicit within the Report. From the interviews there appeared to be two lines along which members saw travel as possible: the one concerned eligibility for access to treatment, the other the use of the different kinds of treatment available.

(ii) Access to treatment⁹

The Report clearly stated the committee's view that it is better for children to be born into a two-parent heterosexual family (1984:11-12) so I was interested in trying to determine how sure individual members were about this. Once again a distinction may be drawn between members' reports on how the issue was discussed on the committee and the opinions individuals expressed at the time and/or in the research interview.

On the committee

'We were very divided about this and there was quite a lot of discussion about it' (07/8)

This view was repeated by several members (01/2; 04/11; 06/11; 08/5;

11/16). One person said the committee had a difficult time because two members wanted positive statements included about the family, arguing that treatments must be received within the context of stable, heterosexual, married couples, whereas

'I think almost all the rest of us felt that there could be occasions when you could see an erosion of this'. (11/16)

The notion of the family became central to these discussions on whether or not there should be screening of infertile patients:

'And it was within the context of the family that there were some people for whom treatment would be withheld. And then it went on, as you can imagine, into the case of non-married couples and then non-married single persons, homosexuals, lesbians or single people without a partner'. (01/2)

In both these quotations there is a sense of progressive steps, or 'erosion', away from some assumed situation. An indication of what that situation might be and of the way in which it was discussed can be seen in the following,

'I took the view quite strongly that the ideal environment in which the child should be brought up would be - we managed to get the phrase in eventually - in a stable relationship between a man and a woman. I felt that was quite an important issue. Not everybody on the committee shared the same view in the sense that they said, "well, in a lot of marriages things don't work out". That's true, it's not an ideal environment for some children in their particular instance and a lot of single parents do remarkably well, none of which I would deny. The question is "what do you perceive as the ideal?" rather than, "how does it work out in practice?". I think single parenthood is always ... a struggle for the parent doing two people's job and I think always the child must suffer some degree of deprivation because they've no opportunity of a relationship with a person of the opposite sex. So it's a fact it's not quite the same. And it didn't seem to me that the other fact that the normal marriage relationship doesn't always work out should deviate one from saying, "but nevertheless this is the ideal" ... So we did differ a little on that. It was a question of recognising what the ideal to be striven for was, as against recognising the realities that sometimes the ideal is not met ... Some of my colleagues therefore wanted to say, "well we shouldn't be putting this forward as the ideal, we should be very pragmatic and practical".' (04/10)

Perhaps the following is an example of what the above member was

referring to:

'I think I was more concerned about who could be treated for infertility because there was a very strong feeling throughout the committee, which gradually changed but only gradually changed, that we were talking about infertile married ladies, without saying. "well, look, there are other groups of people and we can't actually only talk about people who are in a stable marriage and also you can't really make assessments as to what a stable relationship is - a lot of children are born into a lot of what are apparently stable relationships and things can happen, even by the birth of a child" A lot of other people were taking up a sort of middle class, traditional, establishment view. I found myself more and more saying, "But there are other people out there and they can't be ignored, we can't just cut them off". So from that point of view, in some ways I became partly the spokesman for all the people who'd been left out and in some areas got people to modify some of the things they might have said because I felt ... we actually had to have a report that included everybody I can't see any reason why lesbians shouldn't have children if they want to'. (05/13;15)

These lengthy quotations indicate how notions of family types can be constructed in such debates and this is a topic which will be carefully examined in the further interpretation of these data in the next chapter. More prosaically they appear to represent opposing positions in the committee, between which others expressed their own uncertainties. This suggests that the frequently cited 'rule' in the Report was only included after a struggle and did not fully reflect the complexity of members' positions. The questions of why that particular view predominated remains unanswered for the moment however.

Members' personal concerns (as opposed to the way in which the concerns were debated on the committee) varied quite widely. There were those who had no strong feeling either way about access to these procedures,

'I didn't have any views on that at all' (03/9)

but who would perhaps favour wider access,

'I'd have thought that it should be looked at in the context of individual cases. I was never strongly of the opinion that it should be restricted to couples only ... I would have thought it should be available very widely' (09/5);

to those who expressed concern for the child and its upbringing (07/6-7) and,

'I feel that a child should grow up ... in a home which is comprised of a relationship between a man and a woman, whether that is bound by marriage or not I don't hold absolutely rigid views there, but it should be a stable relationship whereby two people are committed to one another and not just something in passing, which happens to be something they feel they would like at a particular moment in time because that I think is a selfish attitude, in order to meet their own particular need ... there is more in my view to bringing up a family than that'. (10/15).

Others expressed uncertainty about access to these technologies by single people (01/2; 06/11; 08/5; 04/9-10; 07/11), lesbians and homosexuals, unmarried couples, unstable couples, women with children in care, elderly (in reproductive terms) patients, people overanxious to have children. However, these uncertainties were not always clearly expressed in terms of family forms, other grounds were also cited; for example, social and legal difficulties (01/7-8) and the shortage of resources (07/14; 08/5; 05/15). Many members clearly had some difficulty in reaching any firm conclusions on these matters:

'Ah dear me, I find this a very difficult subject ... and quite frankly as I speak, I'm not sure of a number of areas' (12/13)

Even one member who had previously stated his position clearly (see the quote from 04/10 above) said,

'one started off thinking there might be certain logical distinctions which can be very clearly drawn; it isn't that, it's how far you move away from what I would regard as the ideal situation' (04/16)

This perhaps explains why the Report mentions the groups about whom there might be objections, yet reaches a conclusion without clearly addressing those objections. One member resolved these uncertainties apparently to his own satisfaction, though not without difficulties (see quote from 12/13 above) by concluding,

'I think I would put it this way. I don't think this kind of reproductive medicine ... is there simply on its own account to take a lead in the establishing of national attitudes towards certain circumstances or conditions. For example, I don't think it is the business of reproductive medicine to be taking a lead over whether homosexuals should or should not be encouraged ... to take on, by one means or another, responsibility for children ... so that's the line I would take, I think, on a number of these issues, that a body of this kind can't lead on a general public debate and would be moving out of its sphere to make innovative proposals of that kind which it was not qualified by any means to do' (12/4)

Whether this was his position at the time of the committee's meetings is perhaps less significant than the fact that four years later there is evidence that these decisions are still being puzzled over.

For those other members who did not want to take a firm stand, either way, on the question of access there was still an unanswered question: if strict rules are not to be laid down then who should make the actual final decision? The Report recognised that many of these decisions would have to be made at the point where the consultant was reached. The decision was not necessarily that of the consultant alone, s/he may consult with 'professional health and social work colleagues'. However, the next paragraph suggested that a lack of hard and fast rules would mean that the consultant would have to make social judgements as well as clinical ones (1984:12). This led the committee to recommend in the Report that consultants should explain fully any refusal to provide treatment. The difficulties that members obviously had over the question of eligibility perhaps explains what might be seen in the Report as an evasion of a question that they had apparently set themselves; the alternative might have been to allow completely open access, with the protection of a consultant's right to refuse treatment. However, in investigating these issues further, in the interviews, it became apparent that the question of access and selection had to be discussed since it

was already on the agenda for some of the doctors on the committee:

'of course one of the difficult ethical problems is "how do you select people?" ... am I justified, as a doctor in selecting people and saying, "you're not suitable for having a family, you are"? (02/4)

Later in talking about refusals, this member continued:

'Now you can say we're playing God ... well we're not playing God, we're just trying to take the whole thing in the context of society, but it is a controversial issue I've heard a lot of people get very uptight about the fact that we say "no" to people.' (02/6)

Therefore this issue had to be discussed but one member reported that,

'It was very very difficult to get the medical members of the committee to be fully frank about what they would do ... because if we take for the moment the case of IVF, if the question was, "would you treat just anybody?" they nearly always hedged around and said, "well of course we'd have a list, we'd decide who is suitable for the treatment" and if we said, "well how do you mean 'suitable'?" they were very unwilling to say that they made moral or social judgements. They somehow tried to cover this by saying, "well, some people are too old, or some people are not in a condition such that they would be likely to survive the tensions or survive the surgery" ... hiding behind clinical judgement what might surreptitiously, if you really flushed it out, be moral or social judgements, and this is something we had to face the doctors with'. (01/2)

Those members who expressed an opinion were reluctant to leave the essentially unresolved question of access in the hands of the consultant. As one member said, this would require them to consider not only medical but also social, ethical and moral reasons for treatment. She felt it was hard for a doctor to refuse treatment (10/16). Another member suggested that doctors might accept unsuitable patients in the bid to improve their success rates (07/6). Thus concerns were expressed in both directions over consultants' decisions and a preference was expressed for a decision-making panel of various kinds of professionals (03/9; 07/8; 01/2).

Therefore, the question of access, when discussed in abstract, was clearly unresolved at the time of the committee meetings and for many

members, was still unresolved four years later. We can now see how big a practical problem it was perceived to be as we consider each of the reproductive procedures in turn.

(iii) Artificial insemination by husband

The views expressed by members in the interviews reflected the general acceptance of this procedure in the Report, although there was some variation in why it was regarded as unproblematic:

'To be perfectly honest, I didn't understand under what circumstances this was a feasibility ... I mean it's a very rare occurrence I gather It was a bit of a non-event as far as I was concerned because as I say they regard this as being just a very fringe or peripheral situation. I mean it doesn't require any new legislation at all. I mean the husband is not only the legal but the genetic parent in these circumstances so it wasn't really an issue at all as far as the committee was concerned'. (03/12)

and,

'Well, on the basis of what I've just said on what I regard the situation of the child as being ideally a parent of each sex, the real question was how far can you allow deviation from that without impairing whatever is the essential value of it. This was really the top and bottom of it ... and AIH, obviously there's absolutely no problem about at all; a technical manoeuvre to get round a difficulty' (04/11)

Others described it as 'morally very easy' (13/2), 'obviously OK' (05/15).

There were however some mild reservations about it; two members for example suggested that

'the main problem is that it doesn't work very well' (09/6)

and,

'my reading of the medical evidence is that it's not on the whole much use, therefore we can largely forget about it anyhow and let's not waste too much time discussing it' (12/17)

Another member pointed out that it was a procedure involving clinical intervention and therefore,

'of course a third person is involved because it is a treatment which is actually done by a third person ... in an act that is essentially an act between two people' (10/18)

Another member said,

'I think that there's quite a lot of these things that I probably take the view "well I'm not sure I'd do it myself". But that's rather a different matter from saying should other people be stopped from doing it? And I think one's coloured by the very strong body of evidence that's in favour of AIH. There's virtually no one against it'. (06/10)

The view apparently predominated that although there were objections to AIH from both within and outside the committee it was felt that the committee should not be swayed by them when advising on policy because 'policy was for the good of the majority' (08/8). The one strongly worded reservation about AIH, mentioned by only one person, was also the only reservation registered by the committee in the Report:

'I was perhaps the most unhappy about any use of it, post-death, and even to the extent I adopted a rather conservative point of view which, in almost all the other matters I was quite strongly on the radical side I was unhappy about deliberately establishing one parent families and ... I felt many people would feel uneasy about the possibility that a woman could go on inseminating herself years after, with the seed of a dead husband and that this wasn't a very healthy thing for the family'. (11/14-5)

It is interesting to note the reasons for these reservations, since once again they are located in the social context of the resultant family.

(iv) Artificial insemination by donor

In discussing AID with committee members, three positions seemed to emerge: those who saw little problem with AID (perhaps four members); those who expressed fairly strong reservations (perhaps nine members) and one person who was against it on religious grounds.

Of those who saw little problem with AID most were aware of the objections received by the committee; indeed one of this group said that

in the evidence,

'There was probably more hostility I think to AID than to almost everything else, if you put it on the scales and weighed it'. (11/18)

Even so, his view was that he had not much hesitation in accepting it; though he had concerns about its delivery he had no concerns about 'the thing in principle' (11/19). Another saw 'no great moral problem' (13/2); a third said she had no concerns and found it difficult to explain the concerns expressed by others. It was a

'very reasonable way for infertile couples to be treated ... it seemed to work very well, produced very few problems afterwards' (09/7)

Nonetheless this same person was keen that the legitimacy issue should be resolved, which in turn, might mean people were less secretive and ashamed about it' (09/7-8). Finally, the member who had earlier expressed his desire to create as near the ideal family situation as possible said 'fundamentally there doesn't seem to be any basic problem' (04/12). He explained his opinion in this way,

'AID of course is making a jump because you are making a child of a different genetic line, but I think it seemed to most of us and certainly to me that this was not really fundamentally against the concept [of the ideal family], really, for two reasons: first of all you permit adoption, you can take a child into a family from quite a different genetic strain, and, secondly, if you want to look at it from a purely Christian or humanist point of view, you are making a donation to help somebody else'. (04/11-12)

A second group of members was far less certain about AID and, in common with some members of the first group, gave the strong impression that it was simply the fact that AID had already existed for at least forty years, that its continuance could even be contemplated:

'We were very very much less sure that AID was a suitable treatment, In fact our attitude to that was "it exists, we can't do away with it, we ought to regulate it and make it better than it is now, but ... in an ideal world maybe we wouldn't have it, but we've got it so we can't do anything about it".' (01/3)

Though the Report contained arguments both for and against AID it was not clear that members of the committee had felt this strongly about it.

Another view was 'it's here to stay and you've got to get on with it' (06/10); yet another said 'AID has been going on since time immemorial' (10/14) and another,

'I think quite a few of us took a fairly robust view and said, "well it's happened and let's just try and make it happen properly", but not try and get that genie back in the bottle'. (11/20)

Along with the length of its period of practice members also cited the fact that that period had itself seen fairly radical changes in opinion on donor insemination; to a certain extent they felt they were the ones who could finally bring it out into the open and achieve a better quality of service (09/8; 02/20).

Even if the force of history worked in favour of accepting AID, some members still felt quite unsure about it:

EH: 'Could you say a bit about ... what you felt uncertain of?
06: 'I think that it's the sort of "yuk" feeling about it, which I think is probably historical as much as anything. I don't know, I think it's an instinctive dislike rather than being able to identify it'. (06/11)

The same member saw the falsification of birth certificates as 'indicative of public feeling about it' (06/11). Other members were concerned about the degree of intrusion in a marital relationship (07/18; 12/18) and the problems for the husband (07/16; 10/20; 01/4; 03/14; 02/18; 01/3). In other words, the members of the committee shared the concerns put to them in the evidence, but nonetheless chose to accept it as a treatment. One member explained this in the following way:

'here we get into a very difficult area because I can't say yes and no in abstract. My position on these things is that I can see theoretical objections to that process, AID, but not theoretical objections which would counter effectively the arguments in favour. In other words, it's an argument on balance' (12/7)

However it is very noticeable that not one member put a positive case forward for AID during the interviews. Therefore the arguments stated in the Report in favour of its use could not be added to, nor could they even be restated in the interviews. The position of the one member against artificial insemination by donor on religious grounds should be considered, especially as that objection did not result in a minority report. The member's reasoning was,

'Well this was a view which was held as an individual, as a result of my own religious beliefs ... But the committee was dealing with a pluralistic society, the committee was not making recommendations for one section of the people but for the whole society so on balance it seemed reasonable that a recommendation for AID should be made by the whole committee. There was not a vote taken on that; there was consensus, so I went along with that'. (08/9)

There was clearly one particular aspect of the AID procedure which troubled members and which deserves individual mention: the donors. Members were disturbed by the selection and characteristics of donors in the UK and preferred the French system of encouraging older, married men, who were already fathers, to donate. That much is referred to in the Report, but lying behind their uncertainties about the UK system was the figure of the Leicestershire (sometimes known as the Nottinghamshire) postman; an individual who had been brought to their attention for selling his own frozen sperm, direct from his refrigerator to local hospitals. Reference to the figure acted as a symbol of all their fears about donor selection, from lack of screening, possible odd motivations, the inducement of cash and generally the 'hole in the corner' (09/IN) attitude to AID. One member said there was a general question in people's minds about why anyone would want to volunteer as a donor and that there were versions of good and bad motivations for donating. The desire to perpetuate one's genes was a bad motivation,

'though why this was a bad thing was never clear ... the thought was perhaps that if there was somebody who simply liked the idea of the world being full of these [children] whom he would never know, he would be a slightly cranky sort of person and secondly if there was someone who thought he could make a quick buck he was also not particularly reputable ... the motivation that seemed most satisfactory is that people thought they were partly doing some good, partly doing what was asked of him and, you know, not particularly keen, necessarily, to have all these children'. (01/16)

Another member had slightly mixed views on the idea of donor motivation, saying that she did not agree with the view that says a man who offers to donate must be 'pretty kinky' but followed this immediately with:

'Alright, they are odd in some way perhaps, but perhaps they're not ...' (05/21)

and anyway how serious a concern was this because,

'I can't see that that sort of bit is going to be handed on to their children' (05/21).

These doubts about donors spill over in to the question of anonymity which will be considered in more detail in the next chapter:

'We thought that if they had wanted to be named there might have been something odd about them' (07/21)

that they perhaps had a 'macabre interest', though in what was not made explicit.

Therefore a high degree of anxiety about AID was expressed but often without any specific focus. This was possibly because members remained unclear about certain aspects of its practice, though this lack of knowledge itself made one member uneasy:

'There's no one with a vested interest in doing anything about AID other than making money out of it There's actually no agency that has a vested interest in making AID work, unfortunately. I think it's sad that there isn't anyone ... not so much even looking after the AID children, but actually really taking on board the problems of AID ... the childless have obviously got a vested interest in not having any investigation of AID ... they'd like it to be available but they don't really want anyone to look at it too hard in case they look at it and say, "well, look, you know, it has got problems".'(05/23)

The question of the acceptability of AID appears therefore to be answered by a series of anxieties, contradictions and mixed feelings.

(v) In vitro fertilisation, with particular reference to egg donation.

The committee had to move beyond the difficulties of AID to consider a new form of donation: that of eggs, which was made possible through the development of in vitro fertilisation. In the interviews I asked members first for their views on the IVF procedure, then on egg donation.

Few concerns were expressed about IVF and it was not something that anyone wanted to discuss at length. Perhaps this view sums up the general attitude:

'We had no doubt whatever that IVF was a good technology and ought to be developed so that its success rate was higher than it was at the time we were meeting. We took the sort of Louise Brown case, which was obviously where we started and why we had been set up, as an excellent specimen of treatment for infertility that worked and had worked twice over, you know and now there was a good family. So that was something we all agreed upon. We were very very much less sure that AID was a suitable treatment ... (01/3)

Another member's view was that the message from the public was that IVF was wanted and it was up to the government to decide at what price: a reference to the social and political arguments over the production of spare embryos (13/2). From the members' comments they were not unaware that prices might be paid at all levels and in different ways:

'I almost marvel at people, how persistent they are trying to have children because ... it's all got so regimented and what should be an easy, natural procedure between two people becomes a highly technical thing. You've got injections and ultrasound and all the operations and the man having to produce at the right time and all this sort of stuff - highly artificial business, the whole thing ... very stressful really, there's no doubt'. (02/15-16)

Another member was concerned about other costs:

'really, no other condition would you take them into hospital with a 70% failure rate, would you?' (07/10)

However there was a generally favourable reaction towards IVF so I was interested in how such views developed when the procedure was combined with donated gametes. At first, following the principle, stated earlier, of tracing the development of these discussions as they appeared in the Report, I raised the question of egg donation. I was interested in several aspects: whether members drew any distinction between the donation of ova and that of sperm (and here I used the device of asking their opinion of the Swedish proposal to ban egg donation, as a means of encouraging members to be more expansive in their replies) and whether their views drew in any particular way on the association between IVF and egg donation.

A recurrent theme in the interviews was that egg donation was the same in principle to sperm donation, but different in terms of collection. This was not necessarily a first response though:

'I think some people sort of gulped and said, "oh yes" and then, "what am I worried about? Am I worried about it?" and then they decided they weren't, that really it was no different'. (07/22)

Another described egg donation as 'just the sort of flip side' of AID (06/13). However there is a question of what the phrases 'same in principle' and 'the equivalent' actually mean since one member said

'I regard it as the exact equivalent of sperm donation. The difference is that it's more stressful for the woman to donate eggs than it is for the man to donate sperm'. (09/9)

Not many members could actually follow through to explain exactly on which grounds sperm and egg donation were the same and on which grounds they were different, nor did they explore the implications these differences had for the argument that 'in principle', they were the same. Two members who attempted this both opined that there might be a case for drawing psycho-biological distinctions. One speculated that

since sperm are 'exited' from the body for AID and ova extracted for egg donation,

'one view may be is that he is not therefore attached as a woman is to an egg' (08/14)

but he himself did not really regard this as a valid distinction, particularly as the egg is 'exited' every month anyway. Curiously that monthly occurrence confirmed for another speaker that there was 'biological assymetry' between sperm and eggs, because women had to think about their eggs on this monthly cycle, whereas sperm are treated 'much more casually'. However he argued that did not constitute a strong enough distinction to regard the two as essentially different in terms of donation, but the subject merited much more discussion, in his view (12/28).

On the whole though, members thought little about the distinction made by the Swedes in banning egg donation. Their responses included: if donation is to be allowed for a man it should be allowed for a woman (09/10); 'rather woolly thinking' (06/14); 'it sounds as though the politicians are really off their clogs' (02/22), 'another of those generalisations' (05/25) 'a bit illogical. I think one gift is the same as another gift' (10/24).

Yet many were worried about the problems of egg collection even though they did not regard these as sufficient to stop its practice. In the Report the problems associated with the actual collection of eggs tend to be mentioned simply as part of the explanation of the technique. For the individual members however they were more prominent. One issue in particular, that of the informed and free consent of the donor, taxed some members. One argued that it should be taken very seriously

particularly as he regarded the 'medical business' as being 'highly sexist' and likely to presume consent. In his view a woman should not be asked to donate eggs when lying on her back, about to have a hysterectomy (12/28-9). Another also said he was not at all happy about consent since some women were in a very weak position to say 'no' since the people asking for the eggs may be the same people providing the original treatment (06/14): this was different from sperm donation since the donor there is not under the same obligation (although interestingly he may be as a medical student or under the French system which the committee like so much). However, the first member here felt fairly positive towards egg donation if that opportunistic element were removed (12/31).

That positive attitude prevailed over members' other concerns, such as the risks of superovulation, of anaesthetics while eggs were being removed, of the need for counselling to ensure informed consent was given. The overall view was,

'on the whole they assumed that the woman would be doing it because it was no trouble to her in the circumstances and that it would be thought to be good for somebody else' (01/6)

Another member, acknowledging the concerns about egg donation suggested nonetheless another view:

'There are a lot of women about who have a feeling of altruism as well. I mean they may need to be sugared by a bit of money as well, but, nevertheless they may feel altruistic and say, "I don't mind giving an egg so that somebody else may have a child"' (05/26).

This view was confirmed by another member who suggested there was a 'lot of donative feeling about' and that some women will 'very joyfully' donate eggs (12/29).

A brief comment may be appropriate here to suggest a possible interpretation of these views particularly by comparing egg with sperm

donation. When drawing a contrast with sperm donation it is apparent that there are differences in attitude to egg donation, over and beyond the technical difficulties of collection. These differences are found in the way the donation is couched within other social practices and assumptions. For example there was no mention of egg donors as possibly being odd as there was in the discussion of sperm donors; there was little mention in sperm donation of sibling donation; there was less mention of exploitative practices in sperm donation; there was more mention of the generosity of the donor in egg donation than in sperm donation. Therefore holding the view that egg and sperm donation are 'the same' means that since sperm donation is acceptable, egg donation must be as well. However, once the acceptability of egg donation has been established, it becomes clear, on closer questioning, that there are actually very different attitudes held about the two: egg donation is generally seen in a positive light and sperm donation in a rather negative light. It is perhaps worth speculating what the attitude towards sperm donation might have been if for some curious reason, egg donation had been possible first. I shall return to the differences between egg and sperm donation later in the chapter: for the moment I shall examine members' views on embryo donation, which can combine both egg and sperm donation.

(vi) Embryo donation

This was a topic which did not get discussed in the interviews as fully as it might have been, partly because of lack of time and partly because many people had expressed their views more generally on gamete donation. Given the shortage of time in most interviews it was therefore

less useful to go over this area in detail, especially as by this stage of the interview many members wanted to move on to discuss surrogacy. When it was discussed it was mostly in the context of having both egg and sperm donated, though as the Report points out, this is not the only form of embryo donation (1984:39). The report describes embryo donation as 'probably the least satisfactory form of donation' without fully explaining what this meant. However, seemingly because it was likely to be little used, the Report suggested that it be accepted as a treatment (1984:39-41). We can glean from the interviews why it was seen as less than satisfactory:

'well that is ... one further step down the road and I think we were not very happy about that if I remember rightly'. (06/14)

Another said he would draw the line at gametes donated by a third and fourth party,

'but it would be very arbitrary. As I said at the beginning the question is "how far from what I regard as the ideal" - that the child is the fruit of a stable relationship between a man and a woman, their genetic material, how far do you deviate from that? And you can't say there's a clear logical mathematical precision to this. I would have felt that if you get to the stage with the genetic material coming from entirely outside you might well then turn round and say, "well, what are these people after? A child of their own?" Well it isn't their own genetically. A child they can bring up as their own? Why not then adopt a child because there are many children needing that home? Why not do that, you know?' (04/15)

But, he conceded, adoption would not satisfy such couples (04/16).

Further insight into the reluctant acceptance of embryo donation is provided by that last point since clearly the two procedures are different: the experience of pregnancy in embryo donation, which adoption lacks, might be thought to provide not just bonding but also the appearance of a normal child and family. Another member however argued that since adoption was an acceptable procedure then embryo donation

should be too since they both resulted in a child being raised by adults with whom s/he has no genetic link (08/15). The point led me to ask in some interviews if members had any views on whether it was preferable for the 'child' to be fully genetically related to both nurturing parents, or only to one, or to neither. Opinions varied: one member referred back to the difficulties of the AID husband cited in Snowden, Mitchell and Snowden (1983) of being left out of the genetic bond between mother and 'child'; three members thought it was better to have at least a 50% genetic link:

'I think it's important to have a half if you can. I mean ideally to have both, even if they can't be brought together naturally ... that's the ideal, the gametes belong to that couple ... if there can be half a contribution it's obviously better than none'. (10/26)

Another said that 'half a cake was better than ...' (07/15); another said it was only human nature to want something that was a part of you (08/15-16).

A contrasting view was put that

'Well curiously enough ... I thought perhaps you know if both parties are infertile and therefore they have to go elsewhere for the gametes, that's much better from the point of view of the couple, than if one of them only is perceived to be dud as far as producing babies is concerned. But if they're both duds then they're in the same boat together. And it doesn't give possible feelings of inadequacy, as far as particularly the man is concerned'. (03/14)

Another member tended towards the same conclusion but on different grounds: he was unhappy if an egg was donated (or if surrogacy occurred) purely so a man could continue his line (12/35).

There appeared to be a difference between those who thought of the differential genetic link between the two parents and 'child' in terms of its effect on the social relationship between the two adults and those who thought of it in terms of the effect on the biological relationship

between parent(s) and 'child'. Certainly the biological relationship between parent and 'child' was uppermost in some members' minds. However, a further distinction was then drawn between a carrying relationship and a genetic relationship, between mother and 'child', with the presence of the former compensating for or even being regarded as more important than, the latter. The person who justified embryo donation through the acceptability of adoption echoed the Report in citing the additional advantage in embryo donation of the experience of pregnancy:

'When a child grows in the womb of a woman even though the donors are different parties, you will have a greater attachment for that child because you would be carrying it, so if you have no objection to adoption, there ought not to be any objection to this' (08/15)

Another member, referring to gamete donation in general said,

'the mother carried the child, the one who's going to bring it up, this is the point, the relationship there. People would say that it's not within the marriage because the third party is being introduced, to produce a gamete and that's true of course, but the fact of the matter is, the mother, the actual woman who is going to look after the child, carries it'. (02/13)

This point is obviously significant in terms of views about surrogacy and it is useful to put the two together, which I shall go on to do.

However, just to finish off on the question of gamete donation, several members made remarks about the atmosphere and procedure surrounding any form of gamete donation which may be indicative of other less fully articulated feelings about this technique.

The first expresses anxieties about the procedure of gamete donation:

'I don't like any more furtiveness in the whole approach to the collection of ova than I do to the collection of semen. I think the whole point of a much more educated public opinion ... is that these things cease to be furtive'. (12/30)

This point was raised by several members with reference to various types

of donation.

In contrast, one of the practitioners on the committee (and it is not clear whether the professional status is relevant to this point of view or not) acknowledged that worries started when sperm or eggs were donated into a marriage, but said,

'whether they're justified or not, I don't know, maybe we're magnifying the whole thing' (02/15)

A related point concerned the selling of gametes which the Report condemned, but one member disagreed with this:

'I really can't see why we can't be honest about paying for gametes, it doesn't do people any harm to be paid ... if we want enough gametes then we've got to pay ... I'm very, very upset about this dishonesty in which we talk about the fact that people shouldn't be paying for them. And you know we are actually making them dishonest because we shouldn't be making these sorts of demands on people. And it would be more honest if we began paying people for sperm donations. After all it is a valuable commodity'. (05/19)

This person argued that gamete donation was viewed by the committee in the same way as blood donation (05/25).

So far, despite an obvious wide variation in views, there was at least some unity in the way points were put in the Report. There was no need up to this stage for any dissenting reports or paragraphs. The same does not apply to the topic of the next sub-section, surrogacy.

(vii) Surrogacy

It is useful to remember that, in presenting the arguments for and against surrogacy the Report said,

'The question of surrogacy presented us with some of the most difficult problems we encountered'. (1984:46)

The range of strongly held views in the evidence was 'reflected in our own views' (1984:46).

The interviews suggest that members still had very mixed feelings about surrogacy. It was clear that a great deal of discussion had taken place during the committee meetings and there was some dissatisfaction with the way the topic had been handled. Therefore I shall split this discussion into two parts: the first will refer to members' comments on how the committee discussed this topic, the second will present members' comments on their own feelings.

One member described the handling of surrogacy on the committee as a 'tangled mess' (12/31), which appeared from this and other interviews to be the result of a mixture of internal and external factors. The external factors consisted of the arrival in Britain during the period of the committee's meetings of commercial surrogacy agencies from the United States and subsequent uncertainties about the legal position of surrogacy. This resulted in, according to one member at least, the group being pressed too quickly to state their opposition to the practice (11/26-7). The internal factors were the changing views of a particular group of members.

One member claimed that surrogacy was discussed on the committee for about a year and became a burning issue in the last three-four months (05/36). Others remembered this as the topic which had the most time spent on it (06/16). Although apparently the opinion against commercial surrogacy was fairly quickly arrived at (03/16), the other aspects of the practice were less easily dealt with and one member recalled that though he had thought this would be minor issue, it actually became rather major (11/30). It appears that, although in the Report there are two positions on surrogacy, a majority view and a dissenting report, at one time there might actually have been three distinctive positions. It is tempting to

label the three positions as 'pro', 'anti' and 'unsure' but that would be misleading since even the two dissenters in the Report express some reservations about the practice. Rather the three positions were better described by one member as 'no one hotly in favour', 'some hotly against' and some 'in the middle' (12/33). Another member said,

'it tended to come out something like ... six or seven wanted to criminalise the whole thing, six or seven wanted to leave the professionals to do the job and two ... wanted to try and establish a sort of structure that took it out of the hands of the professionals. And then really, we didn't know, going into the last meeting, how it was going to work out' (11/29).

Yet another member confirmed this sort of division,

'although I think it ended up that only two members of the committee took the view that surrogacy ought to be available as a last resort for infertility, at one time there was a lot more who felt they might well go down that road' (06/17)

The three positions, then, appeared to be: a small number of members who wanted surrogacy to continue as a last resort but only if regulated by an independent body; a middle position was taken up by a larger group who neither wanted to ban nor to institutionalise it, for fear of encouraging its practice and whose preferred solution was to leave it to clinicians to suggest and arrange a surrogacy agreement if they felt it appropriate for their particular patient; and a third group who wanted to ban its practice altogether. It would appear that the split was not resolved until the very last meeting: one member suggested there had been some fairly intensive lobbying over the preceding two or three months (05/36). At the final meeting, in the words of one member the 'middle ground collapsed',¹⁰ which then resulted in 'the tough solution' of surrogacy being banned (11/30). It was suggested that several members were unhappy about this (11/30) and felt that perhaps the wording of the case against surrogacy in the Report was put too strongly (05/36). There

was a feeling that in the end the discussion was too rushed, the problems had not been identified soon enough and that perhaps the issue could have been better resolved.

However, it should be mentioned that although the three positions are clearly remembered by some members, three other members did not describe the split in quite that way. For example, one said on surrogacy,

'Most of the committee, and certainly me, tended to think that at that stage this unhappy couple ought to give up' (01/10)

Another member said 'all except one or two' felt surrogacy was full of dangers (04/12); a third said 'fourteen of us felt very strongly' (07/25).

Some disparity on the grouping of opinions is perhaps not altogether surprising since the variations within the practice of surrogacy are numerous and depending on which particular aspect was being discussed members' positions tended to shift. Therefore in discussing what individuals objected to about surrogacy (as opposed to how the topic was handled in the committee), and why, it is not easy and therefore not appropriate to group these objections as if they were co-terminous with the three positions identified above. The types of objections raised by individuals are not dissimilar to those expressed in the Report but the manner of their expression sometimes is; for example,

'I don't like surrogacy, full stop' (06/15)

and,

'this was a real problem when it came to surrogacy. I mean we just couldn't put into words what it was we all didn't like about it ... when we came to establish the principles we found it extraordinarily difficult and we used words like, "it is not consistent with human dignity for a woman to use her body as an incubator for somebody else's child" (laughing), you know that was the only sort of way we could phrase it. We just couldn't find a principle, or a more specific, neat way of putting it ... but when it came to the real (reason) , what produced such a gut feeling ...' (07/24-25).

This member was still unable to articulate the objections fully. On the objection to commercial surrogacy,

EH: 'Are you able to say more about what it was that didn't seem "quite right?"'

04: 'I think it's a gut feeling, trading a human being for a kitchen ... a new baby which you then hand over. I don't share the romantic, wonderful ideal of motherhood, that's blah, blah, blah. At the same time, you know, having a baby that you then hand over and you're doing it in order to get your kitchen done up ... the whole shooting match is a bit of a shambles'.
(04/19-20)

The objection to surrogacy for convenience, which most members appeared to share, was epitomised by the 'career ballet dancer' who used a surrogate mother to avoid interrupting her career and damaging her figure. This character functioned for the committee in the same way as the Leicestershire postman mentioned earlier in connection with AID: as symbolic of all the problems associated with the practice (01/7). When asked why surrogacy for convenience was a problem one member responded,

'I suppose one feels it's a lazy way out! Why should they have their cake and eat it? (laughing) I think that's probably the strongest feeling, again not a very principled one'. (07/26-7)

These quotations are not given here to suggest that there were no principled grounds for objecting to surrogacy: these are stated clearly in the Report. However the additional insight gained from these quotations from the interviews is important since they indicate that those objections are based on feelings so fundamental that they are not capable of expression nor of analysis. Quite simply they are not part of daily discourse and therefore are not easily mustered to explain one's reactions. Hence reference to 'gut feelings' and other indications of the inability to articulate views.

Whilst some members trusted their 'gut reactions' it is perhaps precisely these feelings that pushed other members towards a more ambivalent position on surrogacy. One member explained his (still) unresolved feelings this way:

'It's extremely complicated and I don't really know. On the Warnock Committee I had a gut feeling, I still have a gut feeling it's not the right thing. I don't think that's a good idea for public policy (smiling) my "gut feeling". But I do think that there might just be a place for it, I've a feeling I wouldn't like to just totally shut the door because I think there might be some women who are prepared to have babies and give them away. The worry of course is what happens to the child: does it do the child any harm to be separated from its natural mother, as a plan? And it's very hard to go along with the idea that we make a plan for a woman to become pregnant, have a baby and knowing that she's going to give it away I'm ambivalent about it' (02/8)

This member was not a signatory to the dissenting report on surrogacy, so it is even more significant that after four years he is still, in effect, puzzling over which position to take. He was not the only one:

08: 'I myself think, thinking back now on the Warnock deliberations, that if there was going to be a second committee at some stage to review the progress ... [it] might take the view that non-commercial surrogacy should be accepted.'

EH: 'Why do you think that?'

08: 'Well I think the law will provide adequate definitions about the rights of the people concerned. There is also a lot of casework building up in the USA .. and it will reflect itself in cases here because objection to non-commercial surrogacy is only for this reason: it creates problems, legal problems, social problems and we didn't want the child to be subject to those. If that area is clarified then I for myself don't see any great deal of objection to it'. (08/10)

This extract suggests several important points: that individuals on the committee might now take a different view to that which they took in the Report; that members did not all share the same grounds for objecting to surrogacy and finally, that members would not cite the same grounds for changing their minds.

Individuals 'chose' their grounds for objecting to surrogacy: we have already seen one member concerned about the handing over of a baby, but when that was put to another member as possible grounds for objection, her response was:

'No, no. My objection is simply on the exploitation ... it's poor women being paid by rich men and their wives to bear their children and I don't like that' (09/11)

Others focussed on the child rather than the surrogate. One mentioned a particular case where a wealthy commissioning couple were allowed to keep the child given to them by a surrogate mother:

'that child is probably going to be looked after very much better than he would be if he had stayed with his natural mother, because she seemed to be a bit of a not very satisfactory person. But the basic point is, however unsatisfactory the mother may be, that is the child's mother and, what effect is separating the child from its natural mother going to have? And we don't know'. (02/9)

It is clear that serious doubts still remain about the practice of surrogacy and most members felt that the Surrogacy Arrangements Act had done little to resolve those doubts. It was seen as a hasty, ill-thought out piece of legislation (05/36-9; 12/32). One member's view was that legislation was actually not appropriate at that time:

'I think what I would have done - this may be a very weak response - I'd have played a Feversham on it ... to allow the medical profession to hang on to this for a time and see what happened'. (12/33-34)

Two quotations which reflect back on the Warnock deliberations and speculate on how these problems could still be handled in the future sum up the dilemmas over surrogacy:

'The arguments against surrogacy are so ludicrous ... I mean talking about bonding, this sort of thing. We may do but in actual fact if there is bonding, it's negligible. I mean you disregard bonding completely in terms of adoption and it really hasn't worried anyone at all. And women being exploited by using their womb, phew! Women are being exploited (laughing) using their hands, using their legs, using their bodies, so why is it different to exploit them using their womb? ... it is really nonsense . Yes, there are problems, but then there are problems in all these areas and what we've got to do is to say surrogacy is like the others. There are problems with AID, there are ... enormous problems with, adoption, but that doesn't mean you say, "we mustn't do it because it's got problems". What you do is, you say, "there are problem areas, so all we've got to do is we've got to take steps to make certain we militate against problems arising, but we also set up systems so that if these problems do arise ... we've got resources available to help cushion them'. (05/27-8)

In partial contrast,

'I'm favourably disposed towards surrogacy under all sorts of fairly stringent qualifications and conditions and regulations ... It's obviously different in kind, radically, from some of the previous procedures but its degree is so different that I don't think we can simply regard it as being drawn into the same discussions as the others. It has to be looked at by itself and it raises many more questions of social policy and ethics and I think we ought to have found ways of making haste slowly, though recognising again there are prices people have to pay for this in terms of unavailability and that's like any social policy'. (12/36-7)

To sum up, briefly, this section on talking about the new reproductive technologies, it is clear that the Report of the Warnock Committee was full of compromises. That is only to be expected from a large group of people trying to devise policy on such a complex matter and it is an issue I shall return to in the discussion in Chapter 6. What is more immediately useful to derive from this section is an awareness of the richness of the language by which these complex views were conveyed in the research interviews and which of course the Report lacks. Therefore, what is important for my purposes is an awareness of the means by which individuals tried to express the distinctions between the position they held and that which they perceived others (on the committee and elsewhere) to hold. In trying to draw these distinctions individuals expose the processes by which they construct their own understanding and definition of these issues; they also expose, on occasion, their sheer inability to express their views on certain matters. This in turn reveals not a weakness in their own abilities but rather the fundamental nature of issues which are rarely exposed to public discourse. There is, therefore, no easily available vocabulary with which to discuss them. These points will be developed in the final two chapters of the thesis; meanwhile it is necessary to review what these data in this chapter can

contribute to the analysis I proposed in the preceding chapter.

Synthesis

The purpose of this final section is to review the interview data presented so far to show what we now know about the members' perspectives on the different technologies and to show how that helps to evaluate the analysis of their management of origins information as presented in Chapter 3. I shall present this review point-by-point to aid clarity.

(i) First, it is clear from the interviews that though I and others have seen the committee as being 'pro'-technology and treatment, some members still had reservations about the cost, success and importance of the treatments.

(ii) The question of access to treatment produced much discussion and division, with at least two members disappointed at the lack of a more positive affirmation of 'the family'. The Report has been criticised for this elsewhere, particularly in parliamentary discussions. However only one member put forward with any force a view that might be seen as 'undermining' the family in any way. Though others pronounced themselves happy to accept some erosion of a family unit based around a 'stable, heterosexual, married couple', the very use of the notion of 'erosion' itself implies an established position that exists in the first place. Therefore, although these issues of access were still puzzled over and were not as firmly established as suggested in the Report, it would appear to be the case that discussions were underpinned by ideas of accepted family norms.

(iii) It became apparent in the interviews that the role of the clinicians in the new reproductive technologies was perhaps more heavily

questioned than was apparent in the Report. A view of the committee being dominated by the medical perspective would not be wholly accurate and there was evidence of tension at times between clinicians and non-clinicians. (Though there were also other, cross-cutting, affiliations and splits too). Certainly the non-clinicians were reluctant to leave non-medical issues, such as access, to clinicians to decide.

(iv) On the question of AIH, the interviews reflected the same general lack of concern over this as was seen in the Report. The interviews did however confirm the suggestion I made in Chapter 3 that the lack of concern was attributable to the fact that AIH reproduces the ideal genetically related and structurally-appropriate family unit (and that the only occasion for objecting to AIH is when it is used to produce a single-parent family, as in the case of post-humous AIH).

(v) In Chapter 3 I suggested that AID was anomalous, being problematic-but-acceptable. The interviews show that members regarded it as very problematic and its acceptance may have been due largely to its pre-existence. Even those members who were less troubled by AID had nothing positive to say in its favour. The questions raised about the motivation and characteristics of donors suggest a general uneasiness about the whole practice, but members seemed resigned to being unable to remove it and resolved to concentrate instead on improving it. This then confirms the position I gave it in Chapter 3 and if anything allows that to be argued with greater confidence.

(vi) The anomaly of AID and the uneasiness surrounding it was further confirmed by comparisons drawn by members between IVF using a couple's own gametes and AID. The interviews reflected the Report in this case

and confirmed the Chapter 3 hypothesis of the former as a 'simple case'.

(vii) At first sight the interviews in general reflected the Report's view of egg donation. However when I asked members to compare egg and sperm donation there was evidence of further puzzles, such as the comparative significance of ova and of sperm. Members were more vocal in their concerns about the collection procedures in egg donation than the Report indicates, even though they rejected the Swedish ban on egg donation. Fundamental to their acceptance of egg donation was the idea that this could be an act of altruism. This view however contrasts sharply with the notion of 'wierdness' associated with sperm donation: no characters like the Leicestershire postman appeared in accounts of egg donation. If anything the motivation of the doctors rather than the donors came under scrutiny. These contrasts suggest a need for a greater distinction to be drawn between egg and sperm donation, certainly greater than that I allowed in Chapter 3; and further explanation is needed.

(viii) Embryo donation did not receive wholesale acceptance by members, mostly because it raised questions about the importance of genetic relatedness, which could not then be easily answered. Members regarded this as an important issue but because they could not answer it adequately they confirmed the 'least satisfactory' status attributed to it in the Report. This confirms its position in the middle category of Chapter 3 but we can see from the interviews that it is regarded as being different to sperm and to egg donation, with far more attention being paid to the significance of the questions it raises about genetic ties than about, for example, donor motivation or collection procedures. In embryo donation the donor(s) themselves receive little attention from members. Overall, this suggests that grouping all forms of gamete

donation together in one category, and I did in Chapter 3, is not entirely appropriate.

(ix) We learn much more about surrogacy from the interviews than the Report; the references in the Report to the difficulties surrogacy caused the committee seem, in the light of the interviews, to be an understatement. The fact that three positions might have emerged on the committee suggests that placing it in the 'possible-but-unacceptable' category in Chapter 3 requires further examination. The interviews tend in fact to confirm that surrogacy should be treated separately from the 'other 'possible-but-unacceptable' applications of the technologies. In fact, given the number of members prepared to concede a role for surrogacy (ie more than the two original dissenters) it almost moves into the problematic-but-acceptable category, though not wholly since aspects like surrogacy for convenience are still clearly rejected, as evidenced by the 'career ballet dancer'. This suggests that it was appropriate to consider surrogacy separately from other forms of third party conception, but also that everyday notions of surrogacy require further analysis.

Members' experiences in trying to handle embryo donation and surrogacy, when taken together, suggest that the need to break down the term 'biological' into its genetic and carrying components, in order then to decide the relative importance of each, produced the most difficulties. The fact that members accepted embryo donation but not surrogacy, despite their apparent sympathy for certain versions of the latter, which came through clearly in the interviews, suggests that the carrying factor was not regarded as being as capable as the genetic factor of containment through strategies such as anonymity. Why this should be so also requires further analysis.

We must now consider how this additional insight affects the explanation of the strategy of openness-with-anonymity which I provided in Chapter 3. The data here suggest that conformity to conventional notions of the family was considered important by committee members, but that they drew more subtle distinctions between each type of family-by-donation than I had allowed for in that earlier analysis. In the case of AID, members seemed happy with the idea of couples using this to become a family, but were less happy with the idea of the donor himself, specifically his character and motivation. This suggests their fear of the donor invading the family may have been as important as their wish to protect him from financial demands. Certainly, their perception of sperm donors as unsuitable characters means the members would not want a 'child' to form any sort of attachment to one, which in turn adds weight to the interpretation of anonymity as a device for the detachment of the donor from the 'child'. By contrast the members were much happier about the donor in the case of egg donation and this possibly explains some of their willingness to be more relaxed about donor anonymity. Nonetheless, there is still a risk of the 'child' forming an emotional attachment to the donor and thereby disrupting the nurturing family, so the principle of anonymity emphasises the need to be cautious about this and to try to detach the 'child' from the donor. In this case, the idea of anonymity has as much symbolic as practical force.

It was in the case of embryo donation that the biological non-conformity of the nurturing family was given most attention by committee members. Here, anonymity appeared to work in the same way as in sperm and egg donation, but it did not help to resolve the question of the importance of genetic relatedness, it simply allowed the question to be

contained within the nurturing family. Members were still puzzling over this question in the interviews, four years after the committee reported. Therefore, learning more about how members reasoned their way through the different reproductive technologies strengthens the theoretical analysis in Chapter 3 which identified the way in which the mechanics of anonymity operate. However, the link between the mechanism and the members' perceptions about anonymity still requires further investigation, which I shall present in the next chapter when I explore members' views on anonymity, the 'child' and the family, and the relationships between all three.

Notes

- 1 This of course posits a distinction between the Report itself, as a document, and the social processes and individuals' views which lay behind its production. To ignore the latter or to deny their relevance would be tantamount to advocating a 'black box' theory of knowledge, being concerned with input (membership) and output (the Report) but with little regard for what happens in between. Another study which I have helped to conduct on groups of doctors producing documents about their standard of care shows how important the process of production is to understanding that which is produced (Newton and Haines, forthcoming).
- 2 Out of a potential seventeen interviews (sixteen members plus secretary) I was able to conduct fourteen interviews, and I corresponded with a fifteenth person. The interviews were conducted in May and June 1988. Full details of the methodological issues in the design, analysis and conduct of the study are available in the Methodology appendix.
- 3 It is not my intention however to use the interview data to undermine the contents of the Report, since both must be understood in terms of the context in which each was produced (Silverman, 1985:21); rather, my aim is to add to our understanding of the Report. For similar reasons I regard the interviews as simply another stage in the analysis embarked on in this thesis, not its culmination. Further questions and theories are likely to arise from the interviews, just as they arose to try to answer earlier questions and theories. In that sense the interviews, like the rest of the thesis, can be regarded as an example of grounded theorising (Glaser and Strauss, 1967).
- 4 I am referring here to studies such as Phoebe Hall's 'Reforming the Welfare' (1976), as well as more general analyses of the role of government inquiries and committees, such as those provided by Beattie (1965), Bulmer (1980), Cartwright (1975), Chapman (1973), Plowden (1971) and Rhodes (1975). The difference between Hall's study and this is not just in terms of scope, but also in epistemology. Hall takes the ontological status of the social world as given and directs her analysis to discovering how sections of that world interlock in the policy-making process. In these interviews my analysis derives from an interpretivist epistemology in sociology, which sees the world as fluid and emergent, and, therefore, as constructed through the interaction, particularly linguistic, between individuals. Hence the need to see how members' constructions of the key concepts compare with my own in the analysis of the previous chapter: this is, essentially, a reflexive exercise (Hammersley and Atkinson, 1983:14). In its concern with policy-makers' subjective understandings it has some features in common with Raab (1987).
- 5 Lack of space prevents a full presentation of all the available data.

- 6 Each verbatim extract selected from the interview transcripts will be identified by two numbers: the first refers to the speaker, the second to the page of the transcript from which the extract has been taken. With such a small group of (prominent) individuals confidentiality is very important; however it is possible that if members of the committee were to read this report they might be able to identify the speaker in certain cases.
- 7 I asked members in the interviews how they regarded the initial split in the committee's work between embryology and infertility issues: this was something they accepted as convenient and astute, being aware that embryology was likely to cause most disagreements between them.
- 8 The initials IN refer to 'interviewing notes': that is, notes I made about what was said in the interviews before and after the tape recorder was switched on and off.
- 9 When asked, members made little of the distinction between seeing these procedures as purely technological processes and seeing them as being applied to the 'cure' of infertility and hence as 'treatments'.
- 10 The reasons for this cannot be discussed in detail, because to do so would breach confidentiality. They were however largely concerned with factors external to the committee.

CHAPTER 5

THE VIEW FROM WARNOCK, II: THE FAMILY, ANONYMITY AND THE 'CHILD'

Introduction

This chapter has two purposes: to consider more data from the interviews with the committee members and to use the material from this and the previous chapter to evaluate further the validity of the analysis I presented in Chapter 3. In the previous chapter there was some support for the wider framework of the Chapter 3 analysis in showing that there was a difference in the acceptability of the various procedures, to the members, in terms of the different types of family produced by their application. Now I want to look more directly at the central contention concerning the use of donor anonymity. To recap briefly, I argued in Chapter 3 that anonymity, presented in the Report as a protection for individuals against emotional and legal difficulties, can actually be seen as a device which allows donation to continue, not because of the protection it affords individuals but because of the protection it affords the nurturing family. Anonymity between all parties ensures that the 'child', who is attached legally to the nurturing family, cannot make any other attachments (emotional or otherwise) to the donor, nor the donor to the 'child'. I argued that the committee favoured the continued creation of families-by-donation because such families reflect the ideological values of family life, even if they do not conform to the biological norms of the traditional family. This also suggests that in their general view of the family the committee regarded ideological factors as more important than biological factors in contributing to the quality of that family life. Indeed it might be that the committee saw

some biological factors as a threat to the nurturing family in so far as the need for the added protection of anonymity would appear to rest on the view that the very existence of a biological tie between the 'child' and someone outside the family is enough to induce either one of them to seek an attachment to the other. Such an attachment would amount to the donor 'invading' the family. However these contentions need to be tested further by seeing what the committee members thought about first, the family; second, the purpose of donor anonymity and third, the 'child', the last with particular reference to his/her interests in knowledge about his/her genetic origins.

The topics of 'the child' and the 'family' did not constitute separate sections in the original interview but instead emerged as major cross-cutting themes which appeared in many different sections, since members deployed them in explaining their views on those topics which were addressed directly. Therefore, in presenting these data, my approach will be slightly different to that in Chapter 4 as I shall be commenting more directly on the connections between the points, since these connections arise from my analytical procedures rather than directly from the interviewees themselves (see Methodology).

The family

I have tried in this section to give a sense of how other aspects of the interviews shed light on members' perceptions of the family, insofar as they had to invoke ideas and images of the family in order to explain their reasoning on these other matters. There are four interlocking dimensions therefore to these data: data on the question of how explicitly the family was discussed by the committee; data which indicate

the extent to which members held ideal notions of the family; data on how members evaluated the importance of genetic relationships and, finally, data which explore members' views on sibling donation. In reading through this material it is useful to keep in mind what the Report said about the family:

The family is a valued institution within our present society: within it the human infant receives nurture and protection during its prolonged period of dependence. It is also the place where social behaviour is learnt and where the child develops its own identity and feeling of self-value. Parents likewise feel their identity in society enhanced and confirmed by their role in the family unit In addition to social pressure to have children there is, for many, a powerful urge to perpetuate their genes through a new generation. This desire cannot be assuaged by adoption. (1984:8-9)

To what extent was this highly prescriptive, ideological representation of the family discussed explicitly in the committee and to what extent can it be said to represent the views of committee members?

The members reported that the family was a theme running through much of their discussions but was not an explicit topic with time allocated to its overt discussion and analysis. To one member the concept of the family was the starting point for their discussions, but not as an abstract concept. She felt, rather, that the committee had to concentrate on the 'frustrated family' that needed measures to bring it into existence (01/1). This member actively resisted broader discussions on the family because,

'that seemed to me to be straying rather far from our terms of reference because we were really asked to look into the moral and social implications of the techniques and I didn't particularly want to start talking about the family and move on from there But a notion of a kind of a social phenomenon, "the family", did run through the whole thing ... and it became difficult and needed to be thought out when we started to think ... whether it would ever be used in cases where there was not infertility but a desire to set up an unorthodox family of some kind'. (01/1-2).

This suggests a pragmatic approach to the concept which could remain

essentially unexamined and taken-for-granted until it was needed as a standard against which other forms could be evaluated. This also suggests this member regarded the concept of the family as in fact having only one meaning and manifestation. Others were disappointed that the concept had not been discussed in greater detail. One who felt it should have been much more to be the fore said,

'The family had been a great concern of mine. You know, how children are brought up and how you build adjusted citizens and how you give children the best chance to be happy, normal adjusted people. So I had a lot of interest in the family as such'. (07/4)

Another said that ideas about the family were 'mentioned en passant, but they weren't examined in any depth' (04/18). Possible causes for this reluctance to delve into the abstract details of the family were attributed to the clinical members of the committee:

'I think this is because doctors see individuals and they deal with the needs of the individual' (07/13)

This was supported by another member who felt that, in relation to AID, the doctors on the committee believed their duty was entirely to the infertile man and never gave a thought to the woman or child involved (it is interesting to note, in this discussion on families, that the donor was not mentioned in this complaint):

'and it was really quite interesting to see the light dawn and you know they said, "well perhaps this is not altogether satisfactory", and your patient isn't just the man, this putative father' (01/4).

Another reason might have been the wish of some members to avoid discussions which could amount to too positive a statement about the value of the family, since we saw in Chapter 4 in the section on access to treatment that this was resisted (11/16). One member felt it was necessary to confine discussions to a 'limited field ... the joy and happiness it gives to a family who are childless to have a family'

(08/23). Overall the lack of discussion on the family disappointed one member who clearly did have a particular view of the family which he felt was important to establish and who attributed the lack of discussion to pragmatism:

'I recognised that we were going to be very pluralistic ourselves and the society's pluralistic; but I thought that you know, both religious and non-religious people might well be able to agree really on the psychological evidence, you know, the child is best brought up in ... not marriage, but a stable relationship , but ... people were not prepared to say that because they were saying, "well, you know, what's the use of making statements of that kind when in fact the divorce rate is this or single parent families ... you know, let's just look at the pragmatics" they were just being pragmatic'. (04/18)

This particular member did not regard discussions on where ideas about the ideal family came from as simply a theoretical exercise. Different family structures had to be considered even if one were convinced about the appropriate structure in these circumstances, since such discussions could support the validity of those ideas:

'Personally, but again it's very difficult to give a dogmatic scientific answer, I think that the best evidence suggests the child is optimally reared in our society and culture, in families where there's a one-to-one stable relationship between a man and a woman ... you can't divorce what you're talking about from the cultural background in which you're operating; it's no good saying, "well in Africa ...".' (04/17)

Others however were less certain:

'I think that has bearing on the question of what one thinks of as the ideal family. Negatively, the un-ideal family is where there's a wrangle over the actual rights over the child' (01/8)

This member said there was perhaps a clearer idea of what is 'desirous to avoid' than of what to aim for (01/8). This lends weight to the view of another member that the majority of the committee,

'felt that we shouldn't give a ringing affirmation of the family but we should find some sort of weasel words to convey that generally the family is a better thing than non-stable, non-heterosexual, non-marital relationships and the result of it was we produced a totally innocuous paragraph really'. (11/16-17)¹

He said he had no wish to legislate against lesbian or homosexual couples having access to the reproductive procedures but was not sure if disagreement with that was confined to an outspoken minority:

'There may have been others there who felt uneasy about the lack of a positive statement but ... I think the paragraph we eventually agreed on ... was pretty good considering we had to deal with such disparate forces'. (11/17)

We saw from the section on access in the previous chapter that members used various expressions to convey what they took to be deviations from a presumed norm. However they differed in what they considered to be the less desirable family types: families headed by an unmarried woman were considered 'worse' by some members than those headed by an unstable married couple, for others the reverse was true; for some, lesbian couples were 'worse' than married women with children in care. However it was clearly the case for some members that the existence or desirability of certain family types was in itself not really the issue; rather it was whether these technologies should be involved in creating such families.

06: 'But then there's the question of whether the new technology should actually be used to encourage and further this.

EH: And?

06: And I think the answer is that it shouldn't'. (06/16)

Another member argued that going to a sperm bank with a shopping list of requirements, buying a straw, then going home and self-inseminating,

'that to me is not what all these techniques are for ... and not the way to found a family'. (10/16)

Only one member argued for a positive view of the variety of family forms which could be created through the use of these technologies and warned of the danger of making 'very white, very middle class judgements' which really amounted to opinion, not 'everlasting truths' (05/33-4). Members

certainly felt the responsibility for creating these 'families-by-intervention' (15/1) and though one was fairly sanguine about their long-term future (11/40), another felt they would need support through their lifetimes (10/20, 10/26).

The status of the family in committee discussions was therefore somewhat uncertain: it was the background against which the reproductive technologies were discussed; it was a goal towards which their decisions were directed; but it was not a topic of discussion in its own right.

Its rather nebulous character was summed up in the following:

'Here we were considering something that wasn't there but which we were going to create'. (10/17)

However, further evidence of how the family was viewed emerged from more concrete discussions where the detail of the different presuppositions that members worked with, had to be articulated. One such circumstance was when members had to consider the biological component of family life, first in terms of the importance of a genetic tie between parents and children and second in terms of the primacy of either genetic or carrying relationships in the specific case of motherhood. This evidence not only sheds light on members' ideas about what constitutes the family, it also helps us to evaluate further the importance they attributed to the biological non-conformity of the family-by-donation.

The primacy of the genetic relationship was clear to some members:

'the basic concept of the child is the genetic child of the two parents, that's the basic concept and once you start to deviate away from that, you begin to raise questions'. (04/13)

Two of the lawyers on the committee cited current legislation in Britain which appears to give some degree of priority to the genetic origins of the child, to support their views that the genetic tie is certainly not

unimportant. One for example cited the nationality laws which would give British citizenship to the child of a Pakistani woman inseminated with sperm from a British citizen (08/22; 03/19). Two other members cited Islamic law which had little concern with how a child was created as long as it belonged to the same genetic line as the family in which it was brought up. Therefore surrogacy and IVF, both using the married couple's own gametes were acceptable, whereas AID and egg donation were not (08/10; 02/IN). Though these might seem to be rather specialised views of the importance of a genetic relationship, they were significant to these particular members in forming their views on the subject.

Other members cited different evidence in support of their views:

'I'm sure it's an innate feeling that genetic is important ... the first people who asked to give evidence was the College of Heralds, so genealogy is evidently important ... to know people's family tree. There's a great interest in family trees now, a lot of people do try to trace theirs. And whether it's important genetically that one should know one's stock or whatever, I mean I just don't know. But I think there's a fairly strong gut feeling that, as far as possible, a couple would like to have a baby that's at least part of their own constitution. I think it's a gut feeling, I mean I can't rationalise it scientifically'. (07/24)

One member remarked on the difficulties a 'child' not related to his/her parents is likely to have since there would be 'marked physical differences and probably temperamental differences too' (03/19). Another gave an indirect indication of his views when he tentatively suggested that surrogacy might be easier if the surrogate was carrying an embryo not related to her genetically. That might be a 'somewhat more desirable solution' (11/39) presumably because he thought it would be easier for a surrogate to surrender the 'child' and easier for a couple to use a surrogate in the first place, knowing that the 'child' would still be entirely theirs, genetically-speaking. Therefore genetic relationships

were not unimportant to committee members but on the other hand no one argued that they were immutable. Several members were fairly relaxed about families being formed by other means:

'I think we're beginning to move away from the concept of genetic parents much more to the concept of the actual family in practice' (06/16)

This member said the issue was now one of delegating parental responsibility, and even the member who talked about having gut feelings about the importance of genes acknowledged that 'we actually don't know enough yet about what is inherited genetically' (07/18) suggesting perhaps that other influences might be just as important.

In the case of egg donation, embryo donation and surrogacy a further issue arises, which is the comparative importance of the genetic or the carrying relationship between woman and 'child'. We have seen the concern and uncertainty expressed by members about the lack of a genetic relationship between parents and 'child' in embryo donation, so it is useful to gain further insight into what members considered the relevant issues to be. This member had no hesitation in elevating the importance of the carrying relationship above that of the genetic:

'When I was having my own family of three children one's friends were all in the reproductive age bracket too and I used to go round asking people, you know, "if you carried a child who wasn't your own genetically, or if you donated an egg to somebody else, which would you feel was more your own baby?" and virtually everyone said, "oh, the one I carried and gave birth to" and certainly that's what I would feel myself If it was a baby born from one's genetic egg one would feel anxious about it because one's anxious about one's brother's and sister's children, one looks for family resemblances and one says, "oh, it's got its mother's nose" and all that, so one would be curious from that point of view, but I wouldn't feel any strong bond, but I would to a child of any genetic origins that I'd carried and given birth to'. (09/9-10)

She was unable to give her reasons for this, though another member suggested some possibilities:

'I think what has to be borne in mind all the time even though the mother is not the genetic mother in the wholly donated situation, she is in fact the mother because she's carried the child the whole time. She's bound to be fixated on it, or whatever the word is, because it's her child, it's grown inside her, she's given birth to it, with all the pain and suffering I'm told that entails (laughing)'. (03/21)

The carrying relationship according to these views is therefore a fuller relationship than that of gamete donation partly because of the time² involved and partly because of the biological support given by the woman to the child, which together create what for some is almost the defining characteristic of a proper mother-child relationship:

'as a carrying mother I think the kind of psychological effect of carrying a child, you know, and all the emotions of being pregnant, the physical changes that occur - as an experience it must be, in a normal woman, extremely difficult to, for example, give away the child'. (02/13)

In contrast the same member said of the debates in the Lords on surrogacy,

'they jump up and down about their genes all the time (laughing) because they want them to continue. If you look back into a lot of their lordships histories, they really don't know who their father is half the time'. (02/11)

One of the benefits of the carrying relationship of course is that no such uncertainty can arise over who carried and gave birth to the 'child', even though all sorts of questions might be asked about the source of the sperm and the egg. This might also provide another indication of why the members were generally happier with egg donation than sperm donation, since the female recipient's role in carrying the 'child' compensates for the lack of a genetic tie, whereas there is no compensation for the male's lack of a genetic relationship.³ Such a view however means that while embryo donation can also be accepted, surrogacy cannot. All of which suggests that tied up in members' ideas about the family is that somewhere, in the process of creating that

family there ought to be some sort of biological relationship, be that a genetic and a carrying relationship or just a carrying relationship or just a genetic relationship (without a carrying relationship), though the last is perhaps, in terms of the above, the least satisfactory. The critical point of course is not whether any of these views is somehow more 'correct' than the others but whether we can start to unpick members' reasons for their views and thereby begin to reveal the range of considerations deemed appropriate to such a discussion.

Yet another perspective on the debate is provided by the issues surrounding donations from siblings which the Report allowed as a possibility under exceptional circumstances. In a way this is a test of the importance of a genetic link between nurturing parent and 'child' since a sibling donation provides such a link, even if not in direct line. There might however be other advantages and disadvantages, as discussed in Chapter 3, so it is useful to see how members reasoned their way through this dilemma.

Members expressed uncertainty about sibling donations. One rehearsed the arguments in terms of sibling surrogacy, positing the view which sees it as the best form of surrogacy because it provides a display of great generosity and countermanding that with the view which sees it as the worst form of surrogacy because the emotional ties involved could be disastrous (06/20). Another member confessed that she just did not know whether sibling donations were better or worse than other donations, but seemed to veer towards rejecting it on the grounds of confusion to the child thinking that its mother is its aunt. On the other hand she speculated that if such donations were to increase that they could be handled best in extended families (07/26-27). One member made a brief

reference to 'domestic AID' and said that people tended to speak of it 'fondly' but he wondered if the 'emotional obstacles' and the 'problems of the child bonding with different kinds of putative parents' did not weigh against the presumed benefits. The problem, as he saw it, is that not much is known about this practice (12/19). Some members felt they knew enough to reject it, with varying degrees of strength of feeling.

'I would probably have said that it was unsatisfactory and that although a sister giving an egg for a sister, or a sister giving a uterus for a sister was like a very worthy thing...I would have generally felt more unhappy than happy about that...The scope for emotional blackmail and entanglements was too great. But I can't say that I felt terribly strongly about it.' (11/25).

and

'I'd have thought that the psychological problems that could again arise there would be magnified. I think when it's fairly impersonal DNA that's been donated, you know, it makes it as remote as possible, as far as the starting up of the process is concerned. Keep it as technical and as removed from human relationships as possible. The relationship then develops with whoever is going to carry that genetic material and nurture the child.' (04/28).

This same speaker drew a distinction however between sibling donations and sibling surrogacy. He had no liking for surrogacy but shared the view that when a sister carried a baby for her sibling the 'rigours of the law' should not be involved (04/21). The problem with surrogacy, as he saw it, was framing a law to handle agencies without affecting what went on in families, since surrogacy had gone on in families for a long time on the quiet. This view suggests that the family is a special case, to be kept private and free from outside intervention, despite (when compared with his view on sibling donation) the risks of emotional entanglements. Another member said he could only accept surrogacy, 'in desperation', if done within a 'loving sisters' relationship on the grounds that this would be a 'private family set up'

and would not involve money (13/3).

The role of siblings creates something of a puzzle therefore, in as much as their donation of gametes is greeted with mixed feelings, but their role as surrogates receives a cautious nod of acceptance (rather than approval, perhaps) from some members. Yet the grounds for being uneasy about donations were the entanglements of family relationships which might be expected to increase rather than decrease in surrogacy unless of course compensated for by other gains, such as the generous motivation of family love. The conclusion to be derived from these views is that though it might be preferable for there not to be a confusion over family roles, such as 'aunt' and 'mother', it is even less agreeable to have outside regulatory intervention in the family.

In sum, it did not appear to be the case that most members had a firm view of what the family should be like against which they then accepted or rejected the different technologies; rather it appears that they had a somewhat vague notion of the family and then pragmatically dealt with the problems of each technology as they arose and appeared to conflict with some aspect of that vague notion. They also invoked certain aspects of that vague notion as the decision demanded. This meant they reached those decisions without resolving, in any firm way, the questions about the vaguest aspect of all: the importance of biological (genetic and/or carrying) factors to their particular view of the family. This led to some inconsistencies. For example, the member who had probably the clearest and the least shifting notion of the family was member (04) who was very firmly in favour of stating the ideological worth of family life as epitomised by a two parent stable relationship. He regarded the

genetic link to be the primary link in families but, despite this, disliked the use of siblings as donors. He also argued that once a woman had carried a child, whatever its genetic origins, then the primary relationship would be formed from that experience. Thus even within a clearly articulated, ideologically informed picture of the family, the importance of biological links varies when confronted with the different possibilities of these technologies. For those who were less certain of their views about the family, the role of biological factors (genetic and/or carrying) were even less clearly reasoned. Several members again had to resort to expressing their 'gut feelings' when clearer explanations were not forthcoming.

We shall now turn to look at members' views of anonymity to see if members regarded it as a device for the protection of the nurturing family, as I suggested in my earlier analysis.

Anonymity

From my analysis of the Warnock Report I was left wondering about the level of agreement on anonymity as a strategy and what individual members thought might be gained from this as a policy. Therefore in the interviews I asked members directly about this aspect of their work.

Two distinctive positions were evident on this topic: those members who were firmly in favour of anonymity and those who were, on balance, in favour of anonymity. The majority of members would appear to be in the second group but again as these are not hard and fast groupings some members waver between the two. However, nobody advocated naming donors as a matter of policy.

Members' reasons for being strongly in favour of anonymity varied.

One said to identify donors

'is probably socially not acceptable because it's a much less personal thing than actually giving an adopted child the right to ascertain the identity of his or her natural parents because that child was actually born to another couple. But this is simply, as I say, a donation of a single cell if you like and it doesn't seem to me to be appropriate or in the interests of preserving the anonymity of the donors that the child should be allowed actually to know who the donor was because after all they've been paid, it's just purely a commercial transaction as far as they're concerned'. (03/20)

The view of another member was

'I've got a personal, maybe people would call it a hang-up, about this. It always seemed to me both in adoption work and subsequently, that anonymity was far and away the best thing ... I know there's been a great deal of hoo-ha about roots and how important it is. I'm not convinced by what I've read, I can't say from experience ... I will preface my remarks by saying I've no practical experience really but my gut feeling was always a bit antipathetic to it'. (04/23)

(The latter phrase was directed towards the idea of removing anonymity).

This speaker distinguished between revealing donors' names and concealing the means of conception and said firmly that he was 'dead against' the latter (04/24). To remove anonymity though would just cause upset.

Another member also stated his views firmly when he asserted that it was 'absolutely essential' to preserve the anonymity of donation since it would be 'shattering' for the donor if the 'child' turned up (13/4). He also questioned whether it was really in the 'child's' interests to confront someone who had 'masturbated off' as a donor (13/4). The impression held by these speakers therefore is of donation, specifically of sperm, as being a limited act which would be of no benefit either to donor or 'child' to develop further, into any other sort of relationship. There is a marked similarity between these explanations and those seen in Chapter 3 to advocate wider secrecy and the presumption of secrecy and anonymity as a starting point in their views is also shared.

Those who used the phrase 'on balance' as a deciding factor in favouring anonymity were weighing up the various different difficulties which would occur were anonymity to be removed. There was also the weight of history in the practice of AID to be considered, which might explain the presumptions of the first group, as well.

'I think behind the fact that we favoured anonymity was that this was the status quo and it just happened to be the way that early practitioners in AID did it. They did it that way probably because they had to be rather furtive about it I think I was also concerned for other reasons, not just the status quo, but also because we did feel, or I felt, that the problem of emotional entanglements loomed as soon as you removed anonymity'. (11/21-2)

This speaker cited as an example of such entanglements the image of the 'child' discovering 'its aunt was its mother, that sort of thing' (11/22). One member had particular fears about the effect on the donor's family of a child turning up:

'I think it's a question of balance and I think that the balance of upsetting relationships within what may be a very closeknit family will be quite enormous, who may not understand. Maybe as the whole process of gamete donation becomes more widely known and accepted and as these treatments are more readily available ... then perhaps people will understand, but I don't know that perhaps we're all quite ready for it yet'. (10/30)

Members therefore had an idea of the benefits to be derived from anonymity, though these were expressed mostly in terms of the benefits to the recipients and their families, and to donors and their families, rather than the 'child'. In terms of the recipients some arguments with which we are already familiar were repeated: one member speculated that a husband's⁴ jealousy might be more focused if the name and other details of the donor were known (01/4); another argued that the donor should be kept 'quite clear' from the nurturing family since they would not want 'outside interferences' in the early stages of childhood, from someone saying he was the child's father (08/17). Another reasoned,

'From the point of view of a third party intervention in a marriage which you mentioned earlier as one of the big concerns about gamete donation then I would think anonymity goes a long way to meet that, because as long as the donor is anonymous I think the couple very soon ceases to think of it as a third party being involved in the marriage and the relationship. If the donor had a name and address and a profession and an image, if they'd met him or her, then it would be much more a real person, a real third person intruding in their marriage. I think that would make it more difficult. So I think many recipients would prefer to maintain anonymity'. (09/13)

This was the speaker's preference too. It is interesting to note that she conflates the donor with the donation, even so far as referring to the donor as 'it'.

In contrast to the tendency so far to depersonalise the donor and minimise his/her contribution, there were some very strong concerns expressed about the effect on the donor if anonymity were removed. Some members cited the fear that the supply of donors would disappear (10/29; 06/21; 07/21) whilst another suggested 'he' had a right to 'fade out of the scene' since donation means giving without strings, rights or obligations (06/22). Certainly the issue of paternal liability was raised as a reason for keeping anonymity,

'I don't personally feel these difficulties very strongly, but I do think that as long as the law is as it is now there would be a threat to the donor if the children turned up on his doorstep' (01/5).

However, when this member was asked why there was felt to be a need to retain anonymity even after the committee recommended the law on the male donor's responsibility should be changed, she replied that this had never really been fully discussed; she then reflected,

'But if the law were changed, as we thought it should be, then I don't myself see any reasons to be particularly alarmed by the thought of these children turning up at the doorstep' (01/5)

Others were unconvinced that this change in the law would be sufficient since,

'even if you pass a law to say that, you're still going to get problems if the donor is identifiable and doesn't want to be identified' (06/23)

and,

'if the identity of the donor is ascertainable then at the very least you must have an absolutely copper-bottomed law that says that the donor ... has got no rights and no obligations towards the child that is subsequently born' (06/23).

As a lawyer he seemed unconvinced that the provisions in the Report to this effect were sufficient.

The ramifications for the donor's family were important. One member argued that quite a lot of wives do not want their husbands to be donors, 'they just don't like the idea of him producing other children' (02/20) though this again is an objection to the fact of donation not to the identification of the donor. Another member created this image:

'What havoc ... on the front doorstep, the advent of this other member of your husband's family, no connection with you at all, no connection with your own family, except through the father. It would create such dreadful upheavals in the families ...' (10/28)

These are the same graphic devices for expressing the fears associated with tracing genetic parents in adoption. The doorstep imagery, whether tied explicitly to the idea of the family as here, or just to the individual donor as earlier, still has the same overall effect of an individual, outside, on the doorstep, while inside is a family home. Anonymity it would seem has as much to do with protecting the donor's family from intrusion by the 'child' as it has to do with protecting the nurturing family from the donor.

Whilst they were concerned to protect families, members appeared to be less clear about the 'child's' position with regard to donor anonymity. There was little doubt that the 'child' should know about its conception, but about the 'child's' right or interest in knowing who the

donor was, one member said,

'I don't know about that, I'm awfully sorry, I just can't comment on it' (03/20-21).

His view was that some would need to know, others would not, but he did not feel there should be access to this information anyway. Another member agreed that a lot would depend on the individual 'child', though he had no doubt about the state's right to withhold the information, especially if it considered that to be in the 'child's' best interests: it could always change later if the evidence suggested that it should. Overall though,

'I find your question exceedingly difficult to comment on'. (12/25)

Other members expressed their uncertainty about the 'child's' position:

'I'm not certain in my own mind how much this "need to know" about your own parents is really a burning need. So I'm really uncertain about this. As I say, I'm willing to be convinced (pause). There are some things in life we can't have, can't do, say for instance not being able to have children. It comes in a way in the same category, not being able to transmit a bit of yourself into the future, ... so I feel sorry for people who haven't got children and aren't able to do that when they want to. In the same way perhaps some people have to face the fact they can't find out about their parentage. You know, I'm not certain that everyone has an inalienable right, or a need, to do it. I mean I think we talk too glibly about everybody needing to know'. (05/29-30).

Again the presumption here is that withholding the information would be the starting point and that a case would have to be made for gaining access to the information, rather than for continuing to withhold it.

The parallel raised with infertile adults is interesting though it raises as many questions as it answers, especially as it might be argued that the two cases are not parallels, but rather that one is the consequence of the other. That is, the process of helping infertile people to have children actively creates the situation in which those 'children' might then have their genetic origins rendered unknowable.

For this last speaker the real goal was to decide which is the most important and if that should mean telling the 'child' the donor's name, then it would also have to be accepted that donors would probably disappear (05/30). Two members explicitly weighed the 'child's' potential wish for information against the wishes of the families involved. One said it was in the interests of the receiving family, on balance, that the 'child' should know nothing about the donor (08/17). Another member who has already been quoted about her concerns for the donor's family if a 'child' turns up, generalised this point at a later stage:

'I'm very concerned about the effect of complete laying on the table of personal details of name and age and photographs and all the rest of it, the effect that that would have on families. I think at the risk ... of upsetting one person who wants to know rather more than is available for that person to know and upsetting complete families, I think the balance is too great, on one side'. (10/29)

This further emphasises the importance of 'complete families' against the individual's wishes. However, another member saw some potential in the view that these are family matters:

'I don't think it's to do with individual matters. You either treat the whole thing, the whole AID enterprise as an essentially familial and friendly and involving activity which you carry through in that spirit from beginning to end, in which case you follow something like the French [system] where the married couple would discuss together whether he should give semen, that would be the joint decision of the donating couple. They would meet personally with the donees and they could be told they would be of similar age and similar family size, married and they would have children. And the child could grow up into a knowledge of those people and regard it as a putative uncle or something of that kind. The whole thing could be done on that basis. Now, I'm not unsympathetic to that idea as long as it's carefully handled, but I don't think it's very easy to mix that idea with a sort of anonymity idea so that you get bits of each. I think this gets you into difficulties. I think you have to decide which way you're going'. (12/20-21)

One suggestion this same member had was that the very fact of the anonymity of the donor could be part of a discussion between the

receiving couple and the child, an experience to which he felt most children would adjust (12/22-23). This adds weight to the view that anonymity can work to contain the use of donation within the nurturing family.

Members were therefore not insensitive to the 'child's' position:

'Oh yes, I mean, in a funny way it's not very nice that a doctor knows who your true father is and you don't or that the doctor knows who your carrying mother was and you don't.' (11/23)

but they felt mostly that it was still better to stick to non-identifying information. I therefore asked them what they felt the 'child' could gain from such information.

At one level members simply asserted that parents would have to tell the 'child' about his/her conception and echoed the recommendation in the report that the 'child' should be told about the donor's ethnic origin and genetic health (09/15). Not everyone was quite so sure however and at least one member suggested that whether to tell the child was a decision for each individual family (08/18). However, if the child was told, the information should include the donor's

08: 'ethnic origin, what was his age when he donated his sperm, what sort of activities were his interests, all that sort of thing. You can't provide more than that.

EH: What is it that the child is thought to gain from that information?

08: Just satisfaction, a sort of completeness about his coming into existence, how his birth took place. Not that it would make material difference to people if say at the age of 18, 20 or what have you, they learn about that'. (08/18)

This speaker went on to say that even if the White Paper recommendations on the removal of anonymity were followed, 'that information' (and here it is not entirely clear whether the speaker was referring to the above information or specifically the donor's name) should not be given to the child before the age of sixteen,

'Undisturbed growth you see in a family unit is very important for the child' (08/18).

It would appear that in terms of the information about the donor the 'child' is thought to need both a mirror for his/her physical development and information which would make the donor a more 'real' person, for example by reference to his/her interests. That information was not however to go so far as to make the donor a 'complete' person by providing his/her name. Another member puzzled over other pieces of information to tell:

'well to start with we thought physical characteristics, tall and blue-eyed or whatever, possibly occupation. Erm, genetic, well I mean profile of ailments, health record ... something like diabetes is something one would put in a profile but it wouldn't preclude the sperm being given, so it may be useful to have a bit of a medical history ... it was debated whether or not occupation should be given ...' (07/19)

This suggests some uncertainty about the purpose of the information . If members could see no point in giving any information beyond features which might be genetically inherited it would imply a focus on the donor as the provider of genetic material, no more and no less. However that clearly is something these speakers are not quite happy with, as though they feel the donor should be regarded as more than that, but without knowing quite what. However, if information goes beyond the purely genetic then it becomes highly subjective:

'I go along with genetic health, I go along with ethnic background, though ethnic backgrounds are really, you know, very dubious ... but you know, what else can you actually say?' (05/31)

Partial response to this rhetorical question came from other members' experiences, knowledge and stereotypes of the position on access to birth records in adoption. One saw the alleged lack of interest in this information in adoption as grounds for dismissing it as a major issue in

third party conceptions (09/16-19); another just saw this as more source of uncertainty (11/23). However, as another member pointed out, at times the comparisons between adoption and third party conceptions were absolutely right, but at other times they were not (03/21). Most of the committee were convinced by one member's view that the 'child' would suspect there was something wrong in his/her background if not told directly, but otherwise, for some members, the comparison was oversimplified. On the other hand, as one said, there was little else to work with especially as there was little hope of funding for more research on AID (12/27). This particular member was 'absolutely committed' to the idea that the adopted 'child' should have access to knowledge about his/her natural parents, including meeting them if necessary, since all the evidence pointed to the appropriateness of this. However he was unable to transfer this to the situation in third party conceptions as the two practices had distinct emotional connotations: adoption 'picks up the pieces' from things that had gone wrong whereas AID started from a different initiative, being the means to acquire a child (12/22). Again many of these arguments repeated those mentioned previously in this thesis, especially in Chapter 1. It was with interest therefore that I noted one member's use of the parallels with adoption as evidence that identifying knowledge was not required. She cited a family friend who had been adopted and who rejected the possibility of inquiring about his natural parents on the grounds that,

"I don't want to suddenly find I've got another mother and father. I'm not interested. You are my mother; my father is here and I accept that totally and absolutely and I have no interest" Now, I'm sure there was a very well balanced upbringing'. (10/27).⁵

On the other hand members were aware of changes in adoption practice and

when, in the interviews, I pointed out the suggestions in the White Paper for removing anonymity this was met with a degree of equanimity even from those who strongly favoured anonymity:

'it would be unwise but I can see the pragmatic reasons. It's already there for adoption, therefore it's difficult for the state to make a distinction in that way. So it would not be my decision, but I wouldn't be wanting to write to the Times about it'. (04/28)

And another,

'I don't think anything should be set in stone, I don't think we can afford to set anything in tablets of stone because I think everything is moving so fast, public opinion is moving and certainly techniques and developments are moving'. (10/30).

Another welcomed such possibilities more positively, saying they would be 'rather nice' and pointing out that committee members could be thought of as 'pioneers if you like' (07/22).

'Like the whole AID picture could change and I think people are waking up to the fact that roots are important to the child and I think probably in ten or twenty years' time there will probably be another report ... a bit more open-ending' (07/21-2)

This view was supported by another member,

'I think there's no doubt that the more openness you can have within reason, the better, provided the law doesn't penalise the donor, make him pay out a lot of money for his children (laughing) ... it might come to the child to have the right to know everything ... it might not be so much of a worry.' (02/19)

However this view seemed to be directed at some future point in time rather than as a direct consequence of other legal changes recommended by the committee to absolve the donor of any responsibilities to the 'child'. Another member suggested the possibility of encouraging parents to put 'by donation' on the birth certificate as an indication both of his current and possible future support for greater openness, though again this would not necessarily lead to identifying donors themselves.

However a note of caution should perhaps be sounded here since the

possibility of future change and the apparent equanimity with which members faced that, did not mean that the difficulties expressed earlier were themselves perceived as being directly resolved by such changes. The mixture of difficulty and equanimity was summed up by one member who said he wracked his brains over the question of anonymity and argued that although the committee favoured anonymity it was possible to see contrary arguments 'peeking out' from one or two paragraphs in the report (11/20-21).

'I think all the committee felt that anonymity was not an open and shut case ... I think if frankly, if the whole practice of AID had started on a non-anonymous basis then we would have just probably have accepted that one too'. (11/24)

This tends to make the use of secrecy and anonymity sound as though it was rather an accident of history, but as we have seen in Chapter 2 and Chapter 3 the point is that earlier practitioners and committees and commentators had reasons for favouring anonymity just as members of the Warnock Committee had their reasons not to change that situation completely.

One final view was that these issues had to be seen within the context of society, which this member saw as being in a 'very flexible febrile state' about this sort of thing. He once again proffered a solution which would have the effect of attaching the 'child', emotionally, to the nurturing family:

'I think in the final analysis the ability of the child in most cases to respond to and cope with these strange revelations is to do with the emotional warmth and stability in which the family setting, one parent or two parents, offers the child and that that more than anything else is determinative. If that isn't there you're going to have problems anyhow. So I find this a very grey area where I've listened to a lot of evidence and read a lot of arguments but where I think you don't come down very clearly, where there are advantages on both sides of the argument. Where I think that, granted I can't easily choose between these sides, I'll say whichever method you're using should be consistent'. (12/23).

He concluded however that since it was difficult to go back on a confidence revealed the onus was on the new, open, procedure

'to show that it will flourish better from non-anonymity than anonymity. Until such time the state has no alternative but to take a decision which ... it believes will suit the majority. It knows that it won't suit everybody and that's the sort of painful decision the state has to take' (12/26)

In many ways this is a useful summary of the Warnock Committee's position though in fact this member was referring to the state in a wider sense. Nonetheless it is a view which underlines once again that the starting point for discussions was anonymity, rather than a position which asked why anonymity specifically existed in the first place.

Therefore, not only does this material show how members struggled with this issue and apparently settled pragmatically for anonymity as a policy, it also sheds light on the earlier section on the family. Though in that section members were reluctant to discuss the family in abstract and tended to express their ideas rather vaguely, we can see that certain features emerged in relation to the more specific issue of anonymity. From that discussion we can derive a version of the family which sees individuals as being supposed to hold clearly distinguished and separate roles, such that aunts are not also mothers. These roles are based on discrete biological categories therefore. In addition, families are also perceived, it would seem, as discrete, exclusive, self-contained units, such that fathers are fathers only in the one family and 'children' are only 'children' in the one family. Therefore links between fathers (and mothers) in one family to 'children' in another family, or vice versa, are seen as dangerous and disruptive to both sets of families. The importance of protecting the donor's family, which was expressed much

more strongly in the interviews than in the Report, shows that the 'child' can be regarded as being as much of an intruder as the donor, hence the door-step imagery. The interests of complete families it would seem were set against those of individuals. The wish of one member for nurturing families to be open about the need to keep the third party anonymous seems to lend support to my analysis in Chapter 3, that such openness means they cannot be threatened by outsiders. A similar reasoning, I would suggest, lies behind the expressed liking for the French system of donation which requires donors to be open within their families about their donations, thus pre-empting the threat of intrusion by the 'child'.⁶

Members were still unclear however about how to regard the role of the 'child', and his/her interests in anonymity and genetic knowledge.⁷ Insight into their uncertainty might be gained from seeing how they regarded the 'child' in general.

The 'child'

I suggested in Chapter 1 that discussions on the new reproductive technologies, as with those on adoption have tended to neglect the 'child's' perspective on these matters, either through lack of data or through a tendency to infantilize the 'child'. In that respect this thesis is no different to many other studies. However that means that the Warnock Committee were similarly ignorant, since the only evidence they received directly from people born as a result of third party conceptions was that submitted by Donors' Offspring. Did members regard this as a gap in their understanding and if so how did they feel they could best fill that gap? From the previous section there is an

indication that the 'child's' interests were weighed against those of the nurturing family as a whole and of the donor's family. Is this an adequate representation of how members perceived the 'child'? Or was this more complex, given the tendency in the earlier section on access to claim priority for the 'child's' interests as grounds for refusing what were perceived to be deviant family forms?⁸

The material on the 'child' appeared to fall into three main groups: first, the question of how best to handle the 'child's' interests; second, the implications of approving technologies which would lead directly to the creation of children; third, members' views of how that 'child' would experience family life.

In terms of the 'child's' interests, two positions emerged. The first was quite clear that throughout the committee's deliberations the 'child's' interests were paramount and therefore in deciding which procedures to allow the question was not just the adults' wish to have a child, but also what future that 'child' would have (08/6). Another also had no doubts that the needs of the 'child' were paramount (07/4).

However, in contrast to this was the view:

'No, I wouldn't pick out the child more - I think it's always a mistake to emphasize one more than the other, that's how you get these distortions, like the Cleveland controversy. It's balance, I've always been one for balance in these things.' (04/7)

This balancing of interests was further reflected in the response another member gave when asked how he balanced the concerns of the donor, the couple and the 'child':

'Well, the conventional good response to make to your question is of course the interests of the child are paramount. It depends on what you mean by that. I mean, if you don't take the lives of the parents in a sense, as seriously, you're not thereby taking proper account of the interests of the child. And if you're setting up a thing which is problematic for the parents then that problematicness is going to

be problematic for the child. So I don't see one can quantify such a thing, one has got to go for the best one can do all round. And know that what's better for the parents is going ipso facto to make things better for the child.' (12/20)

Clearly this contention is highly debatable, but this member further explained his view by stating that though he realised the 'child's' interests are the most easily neglected, he felt there was more than one way of protecting those interests. He concluded by saying,

'But I think the ... care and concern of the family unit is in a sense indivisible.' (12/20)

However, this view might be challenged by the contention from another member that the Report did not reflect the interests of the family so much as focus

'on the needs of the mother, as opposed to the needs of the child.' (07/5)

This was attributed to the committee being 'top heavy' in medical people.⁹ However, members' ignorance in this matter was acknowledged. In the case of AID for example, very little was known about the children so produced; only Snowden & Mitchell's work was available so the 'child's' position seemed rather nebulous (07/4). One member in particular was very troubled by the even greater lack of knowledge of the consequences for the child in practices such as surrogacy. This was one very important reason preventing him from supporting surrogacy and it was a theme he returned to at several points in the interview.

'I'm so sorry for people who want children but can't have them; this is one way of helping. It doesn't treat the infertility but it alleviates it by producing a child. It's using a child to treat a want. I'm not sure how good that is, I'm not sure, it's the effect on the child that's worrying and we have no data on what happens to the child and it would take twenty or thirty years to get it, that's the trouble.' (02/12)

The other 'trouble' was that he also expressed reservations about the

ethics of following up families and 'children' for the purposes of research because, he argued, couples tended to want to see their 'child' as just like any other (02/IN).

The practice which appeared to disturb members most, with regard to damaging the 'child', was surrogacy. Little distinction appeared to be drawn between the types of surrogacy, since the central concern was the actual handing over of the 'child', 'as a plan' as one member described it (02/8). Interestingly, the member who felt more generally that the 'child' would be protected through the protection of parental interests, expressed doubts about the adequacy of safeguards of the 'child's' interests in surrogacy; he felt this was of sufficient doubt not to allow surrogacy to go ahead as a matter of public policy (12/37-8). Presumably, part of the problem in this case is the doubt surrounding legal parentage and thus with which set of parental interests (carrying or nurturing) the 'child' should be affiliated. Others certainly shared these concerns (13/3; 06/9; 04/6), which were summed up in this way:

I think one thing that everybody was agreed was that it was a very bad way for a child to start its life subject to legal wrangles and not knowing who it belonged to. The case of the American Baby M case...has turned out to be an exact reproduction of what we thought might happen.' (01/8)¹⁰

The second thread to follow to discover members' views of the 'child' is that which expresses reservations about the implications of approving technologies which actually lead to the creation of children. This creative action was an important distinguishing criterion for some members in deciding what they regarded as legitimate application of the technologies. The creation could be at the level of the family:

'It's the child really...I think there's fairly good evidence that you want a father and a mother, if at all possible and I mean if natural circumstances take them away then that's most unfortunate and

something that can't be avoided, but to create children who are very unlikely to have a father and a mother with them for very long seems to be unreasonable. And that's why we wouldn't consider...single parents or lesbians...' (02/5).

This view draws on the presumed needs of the 'child', posits the appropriate family structure to satisfy those needs and legitimates the exclusion of 'inappropriate' applicants, but all justified in terms of the dilemma of actively creating 'children'. Similarly, if the creation is at the level of the 'child':

'Now to create that child, artificially, under these circumstances, I don't think is justifiable. So the fact that you are creating or helping to create a child is different from the person doing it themselves It's the intervention that's not justifiable'. (02/6)

Another member argued that 'if society is intervening and putting a lot of resources into the creation of the baby', then society also has a responsibility to see that the 'child' is alright (07/6). This view was shared by another member who argued that regulation had to ensure the 'child's' welfare was provided for when dealing with couples who could not have a 'child' by natural processes (08/14). Others were nervous at the idea of surrogacy which they associated less directly with actually creating a 'child', but more with the idea of a 'child', having been created, being made available to another couple : phrases like 'baby buying' and 'baby farming' were mentioned and had the added worry of commercialism (04/19; 12/33). Finally, the problems of 'creating' children could appear on another level:

'you could visualize someone getting up in Parliament and saying, "Does the Minister of Health support the procreation of illegitimate children?" and if they are providing funds for AID on the NHS, the answer is "yes".' (02/20)

The extra responsibility entailed by providing the means for the creation of children and families, was expressed through a third set of

considerations about the child, which have been gathered together under the notion of 'the child's experience in the family'. This embraces members' ideas on the type of family a 'child' is thought to need, the type of interaction within families focussing on the 'child' and the type of information the 'child' is deemed to need about his/her parentage.

The perceived needs of the 'child' were seen by many members to lend further support for their view of the ideal family since much of the reason (though not all) for it being perceived as ideal was its ability to satisfy the 'child's' needs. Many members expressed views on what a 'child' needs from a family and some of these have been mentioned in the 'access to treatment' section but it is useful to recall the flavour of those comments, focusing on the 'child':

'I suppose that lesbians living together can't offer the same sort of home, balanced home as a man and a wife, a male and a female. I mean they don't even have to be married but I do think the child has the right, and I don't use "rights" very easily...the unborn child has the right to be born into a situation where as far as humanly possible, it's going to be given a chance to grow to maturity in a balanced way.'(07/6-7)

Others expressed similar views (10/15; 04/9-11; 08/5) and to some extent were able to claim extra authority for those views precisely because they could be seen as being expressed on behalf of the 'child' rather than from any moralistic point of view:

'The child being brought up or being born in a family unit where there's only one parent, the child will not have the same fullness of experience in life which a child ought to normally have where there is a normal household. These were the reasons, there was no moral reason.'(08/5).

Even those members who acknowledged the possibility of single or homosexual parenting tended not to dissent from the presumed value of a stable, two-parent household for a 'child'. The one voice raised in dissent earlier however, pointed out that a 'huge number' of children had

been brought up in all female households after the war and:

'There are an enormous number of children brought up by single parents and there is no reason why lesbian couples make more unsuitable parents ... if you think of all the gay people around that have actually probably been brought up by heterosexual parents (laughing)' (05/16)

This member challenged the assumption that to speak in terms of protecting a 'child's' interest was adequate defence for advocating certain family structures,

'people imagine things damage children, whereas children don't get damaged by things like that, children get damaged by nice, heterosexual parents who make a bloody mess of bringing up their children.' (05/16)

This member went on to dismiss as 'ludicrous' the pretence that children born into a stable relationship would 'have it good thereafter, it just isn't a fact' (05/17).

In members' views overall, there was a tendency towards expressing normative assumptions regarding the 'child's' needs from family life, the one concession being the removal of the necessity of parents to be married. The difficulty of that tendency though is that however much the family may appear to fit that model of family life, it does not of course fit it exactly because of the use of a third party. Therefore, also important for the 'child' is how the family handles the information concerning variously, his/her conception, or his/her genetic origins or his/her biological ties to a surrogate or even all three. There is overlap here with the section on anonymity but again there is some value in approaching this directly from members' perceptions of the 'child's' angle and from within the family. Committee members expressed dislike, during discussions of AID, for the deception of the 'child',

- 01: 'And I think we were all, except the doctors at the beginning and even they came round, we were all against the degree to which the deception of the child was involved in AID.
 EH: How were the doctors viewing it?
 01: Well they (laughing) originally felt that their duty was to their patient and their patient in this case was the infertile male and they took the line, the official line had been, that the infertile male couldn't be asked to reveal his infertility and that there was no need to do so.' (01/3)

This exchange indicates a past where the father's needs were given priority over the 'child's' and a present where that was now acknowledged to be unfair to the 'child'. Others felt that the change in the 'child's' status such that s/he was now legitimate meant that general attitudes would change towards AID (09/8) and would eventually enable families to be more open. However, indications from other members that this would not necessarily be the case are contained in the following comments:

'But I think that families will try and put that out of their minds subsequently and they'll try and treat it as if the child is genetically theirs.' (06/21);

and,

'I always tell couples the legal position regarding the birth certificate but I don't say what they ought to do or anything, it's up to them.' (02/18)

Other sundry comments indicate other aspects of members' views on the likely experiences of the 'created child' in the 'created family'. For example, one member commented on the dangers of allowing women to request specific qualities in sperm donors because this would indicate that 'you're having a child for all the wrong reasons' (07/18). This suggests that dealing with the unknown, the unexpected, is a presumed part of the pleasures of parenthood; moulding a child to certain expectations, one of the faults. Another reflected on the range of possible permutations of surrogacy and the differences between them, but mused that 'once you

start' people will say, 'whose child is it?' (02/10). As a comment it hints at the view of 'children' as the possessions of adults and is a different sort of question to, 'who is the real mother?'

These data confirm that members tended to think of the 'child' only in terms of being a minor and had little thought about the later adult. Overall the interviews support the impression conveyed by the Report that the 'child' was largely an unknown quantity to committee members: they had a feeling of responsibility towards the 'child' but were uncertain about his/her interests or how best to serve them. The 'child' was seen as potentially at risk but hoped that s/he would be adequately protected if they regulated the infertility services and exercised a degree of control over the parentage and family life that the 'child' was likely to experience. There is little sense of an attempt to see these issues from the 'child's' angle and so, for example, there was little attention paid to his/her interests in his/her genetic parentage.

To sum up these data on the family, anonymity and the child, we can see that the analysis in Chapter 3 was partly correct, in so far as anonymity does appear to work, in the members' view, to protect the nurturing family. However, they also thought it was just as valuable in protecting the donor's family too. In other words they regarded the family unit as of primary importance and in need of protection, a point emphasised by the fact that this protection extended to the donor's family, even though according to the data in Chapter 4, some of those (specifically sperm) donors might themselves be rather morally dubious. Certainly a consequence of this protection would be to attach the 'child' to the nurturing family but similarly the donor is also attached to

his/her family. Anonymity therefore expresses members' views about the importance of the family units, but in so doing, makes explicit the view that those units should ideally be discrete and self-contained.

Therefore, the 'threat of biology' referred to at the start of this chapter, though it could be based on an initial assumption that the fact of a biological tie between two individuals would be enough to induce one to seek contact with the other half of that tie, is nonetheless seen to be manifested in its social consequences of exposing the blurred boundaries of their respective families.¹¹

It should be noted that members' reasoning on these issues was based more on a professed ignorance of the 'child's' perspective, rather than on a flat rejection of his/her 'need' to know about genetic origins. However part of that ignorance arises from the fact that to give the 'child's' perspective full consideration would demand a consideration of the importance, more generally, of genetic factors to the individual and in the construction of families. As we have already seen in Chapter 4, members were very uncomfortable and uncertain about these aspects of their discussions and that uncertainty was repeated here. We have also seen that they were more at ease when basing their discussions on notions of the family (however unexplicated or changeable that notion was); thus in resolving difficulties about what the 'child' should know, we can see that they allowed their notions of the family to predominate here too.

Conclusions

In this final section I wish to review the lessons learnt about the analysis I presented in Chapter 3, through the data presented here and in Chapter 4. In the analysis of the Warnock Report in Chapter 3 I

suggested that the overall tenor of the Report, and of the handling of origins information in particular, was explicable by the committee's adherence to the dominant ideology of family life. I suggested therefore that what appeared to be inconsistencies in the Report were also explicable by the committee's failure to make this explicit, such that others could then understand the Report as being underpinned by this view which provided a framework to connect their disparate decisions. However, this analysis of the Report attributes an almost conspiratorial clear-sightedness to the committee members, of the goals they had in mind and a coherence of understanding to enable them to achieve those goals: such a claim required further investigation. The interviews with the committee members have shown that though they were very clear on some issues, they were also inconsistent on others.

These inconsistencies can be found in the data in both Chapter 4 and in this chapter. They include, for example, expressions of unhappiness about AID whilst at the same time using it as a model to justify other donative practices; regarding sperm and egg donation as the 'same' whilst in fact drawing explicit distinctions between them in terms of donor motivation; arguing that the desire to perpetuate one's genes is entirely natural and justifies the assistance given to infertile people, whilst suggesting it is an entirely inappropriate motivation for donating gametes; regarding the parental concern to have a genetic link with a 'child' as important, whilst questioning the importance of the genetic link from the 'child's' perspective; taking up contradictory positions on the relative importance of the genetic and the carrying relationship in discussions on embryo donation and surrogacy (the near acceptance of surrogacy, evident only in the interviews, would tend to devalue the

importance of the carrying relationship, though that is the relationship members used to justify embryo donation); their position on surrogacy was inconsistent between the interviews and the Report, being close to accepting it in the committee meetings but firmly rejecting it in the Report; prioritising the needs of the 'child', as an individual when discussing certain family set-ups, whilst presuming the sharing of interests of 'child' and family in other family set-ups; distancing the donor by keeping him/her anonymous whilst providing social and physical information to make him/her a 'real' person; having a view of families as being discrete units whilst at the same time accepting third party conceptions; claiming not to hold conservative notions of the family whilst regarding certain family set-ups as deviations from an unstated norm.

These inconsistencies demonstrate exactly that which I conducted the interviews to discover: that is, how the members grappled with these issues in everyday commonsense terms. These inconsistencies and the detailed data from which they are derived emphasize just how difficult members perceived these problems to be. What is perhaps even more important, in terms of the Chapter 3 analysis, is that they clearly had no readily available formula, such as 'the dominant ideology', with which to solve these difficulties. What we find instead is that they grappled with these issues and resolved them through a series of largely unconnected pragmatic decisions. There is therefore a marked contrast between the apparent clarity of the committee's position in the Report and the evident confusions expressed by members in their interviews. The nature of that contrast merits further discussion.

The contrast is particularly marked in the way the family is

perceived and then used as a guiding principle. In the Report the ideology of the family was clearly stated in several key paragraphs, such that I argued it informed and guided the committee's decisions throughout. We now know from the interviews that that degree of clarity was not present in more than one or two members and even these displayed some of the inconsistencies in reasoning which I have just listed. What we find instead is that most members of the committee were working with much vaguer notions of the family which they were unable and in some cases, unwilling to specify in abstract terms. There was also evidence to suggest that *in fact some members actively resisted too strong a* statement of support for any traditional notions of the family. However, that notion did appear to have a place, however vague and unspecified, in most members' reasoning on the question of access to treatment and the type of family in which a child should be raised. That is, members were able to make the larger, cruder distinctions between acceptable (AIH and IVF, with own gametes) and unacceptable (homosexuals, single people) bases for family life without much hesitation. Only one voice challenged this.

Where they had more difficulty however was when these (still unarticulated) notions of the family were challenged at a point which required much finer distinctions to be made, such as at the level of the significance of biological relationships, for example in the case of sperm and egg donation. What is significant here is that, in trying to convey their thoughts about these procedures, most members were unable either to articulate the nature of the challenge that these procedures embodied for their ideas of what the family should be like, or to then explain the nature of the response they wished to make to those

challenges. This was even more noticeable when yet finer distinctions were demanded of them, in the case of the relative importance of the genetic and carrying relationships in embryo donation and surrogacy. Whilst some of these challenges could be met by stepping outside the framework of family considerations and condemning, for example, the involvement of commercial agencies in surrogacy, most members remained uncertain about the precise nature of the challenge that these procedures represented to their notion of the family.

It is curious to note therefore that whilst we might expect the notion of the family to collapse under these challenges and have no more value in helping the committee members to resolve their difficulties, this in fact did not happen. That is to say, the family though even less capable of articulation in the light of these procedures, was nonetheless still invoked to help resolve the difficulties of the procedures. Although members' notions of the family were vague, they were not weak. This can be heard in their responses when they said for instance 'I simply don't know' about a topic on which they had nonetheless come to a conclusion; or, similarly, when they resorted to explanations based on their 'gut feelings'. Such responses acknowledge both a challenge to their views and an inability to articulate a clearer response to that challenge, though nonetheless they feel the challenge has not completely undermined their position, even though they cannot say why.

The consequence of this was that in their reasoning about these procedures a notion of the family survived, to act as a standard against which the consequences of the different technologies could be evaluated, albeit in a one-by-one, piecemeal fashion. It was just such a (strong) version of the family which informed members' reasoning on the best way

to handle origins information: that is a desire to protect what is seen as the most valuable aspect of the donation procedures, the family unit. Not just the nurturing family unit either but also the donor's family unit. This, in spite of the fact that the very existence of third party conceptions might be just one of many challenges to the notion of the family upon which the value attached to the family units is based.

The notion of the family, and specifically of biological relationships in the family, is at the centre of this thesis. Those notions however are not free-floating but are tied to particular contexts. I have examined them in two contexts, the Report and interviews with committee members, in order to try to enhance my understanding of the narrower issue of the management of origins information. So far, I suggest we can derive two conclusions from examining the Report and analysing the interviews: the first is that Chapter 3 was basically correct in its analysis of the Report as invoking a dominant ideology of the family. This claim is substantiated by the evidence put forward in Chapter 3 itself and by the evidence in the interviews that that notion certainly lay behind some members' reasoning on some points; it is also supported, in a negative sense, by the almost total absence of a strong representation of alternative ideologies of the family, in the Report and in the interviews. However, it would also be fair to claim that I was correct to doubt the neatness of the analysis in Chapter 3, since it is evident from the data in Chapters 4 and 5, that members' reasoning about the family, particularly in addressing the nature of the relationship (biological and social) between parents and 'children', is much more complex than simply applying a formula derived

from a dominant ideology. It is clear that we have to engage with that complexity, rather than just ignore it. However, having tried to represent that complexity, both in the interview data and in this conclusion, we are still left with several questions. These are,

- (i) given the complexity of members' reasoning procedures, how was it that the Report did nonetheless get written in such a way that the dominant ideology seemed to prevail?
- (ii) though I have been concerned here to represent members' everyday, commonsense reasoning, is there any way in which more formal theorising could help both to identify the nature of their confusion and to resolve that confusion?
- (iii) in the clarification of the confusion, what else might be learnt about the handling of information about the 'child's' origins?

I shall address these questions in the final chapter.

Notes

- 1 As we have already seen, the paragraph in question, which asserted the value of a two-parent heterosexual family (1984:11-12) was regarded as far from innocuous by many commentators, including myself (see Haines, 1989), who have interpreted it as the defining attitude of the committee. I have revised my views in the light of these interviews however.
- 2 This is of course a particular version of the time involved; another version might acknowledge the nine months involved in the carrying relationship, but also point to the permanence, ie for life, of the genetic relationship.
- 3 Issues such as this might have benefitted from more time being devoted to them in the interviews, or from a follow-up interview, but in fact members had great difficulty discussing any of these more 'abstract' issues, as opposed to the more concrete discussions about the technologies themselves so it is not certain that I would have been able to get clearer data on this.
- 4 Members persisted in discussing this in terms of AID only, despite attempts by me to wider this to egg and embryo donation and surrogacy. This suggests they were either more familiar with the arguments in AID or regarded them as the more important: I suggest the former, though I did not test this out.
- 5 This is of course open to a different interpretation.
- 6 This could perhaps even be seen as one family donating to another family rather than for example, 'a donor' donating to 'a couple'; this would further enhance the ideology of familialism (Barrett and McIntosh, 1982).
- 7 These data tend to be a little like snapshots, but this is indicative as much of members' difficulties as my analytical and presentational skills: see note (3) above.
- 8 It is noticeable that the Report did not have a separate section on the 'child' but this is perhaps explained by Mary Warnock, 'We on the committee were also prone to utter the cliché phrase, "the good of the child is paramount". But we were far from clear how to determine what the good of the child might actually be ...' (1987:142)
- 9 The medical members were also blamed earlier for the neglect of the family. Warnock shares this view that doctors in general find it difficult to consider not the patient before them but the child yet to be born (1987:143).
- 10 This presumably refers to 'belonging' in a legal sense. Downie provides an outline of the Baby M case involving a dispute between the surrogate mother and the commissioning couple over the right to the baby (1988:135-7).

- 11 There is also the view, which I have espoused in relation to adoption, that the wish to make contact arises less from a biological imperative and more from a social imperative, of needing to be in possession of one's own biography, in order to be both socially accountable and socially competent (Haines, 1987).

CHAPTER 6

CONCLUSIONS

Introduction

In the first chapter I suggested that an investigation of the management of information about the origins of a 'child' conceived through the use of a third party would provide insight into more than that one substantive concern. I surmised that it would, for example, enhance our understanding of the broader question of the importance attributed to the biological links between parents and children in family life. In particular I suggested that a study of how one group of policy-makers reasoned their way through the issues surrounding the handling of information about the 'child's' origins would both illustrate the complexity of these matters and enable us to identify some of the everyday cultural concerns which are expressed and deployed in the resolution of such issues.

The material presented hitherto provides some support for those contentions, but further discussion is necessary to bring the various strands of the argument together and then to move the discussion forward, beyond the narrow confines of this one thesis. I shall do this in several ways in this final chapter. To round off the discussions emanating from the empirical concerns of the thesis I shall explore the questions raised at the end of Chapter 5. Then I shall move the discussion forward to consider possible developments in the future: first, in terms of policy; second, in terms of future research. Finally I shall provide a summary of the key points presented in the thesis as a whole.

Family Connections?

At the end of Chapter 5 I identified three questions which required further discussion in the light of the contrast between the difficulties experienced by committee members when discussing the consequences of using third party conceptions and the apparent clarity of their position in the Report. These questions were:

- (i) first, how did the Report convey, with varying degrees of explicitness, such a clear stance in favour of the dominant ideology of the traditional family, when the members themselves found this to be such a complex topic to reason their way through?
- (ii) second, what is the nature of the members' confusion when thinking about the family and particularly the role of biology in constituting that family?
- (iii) third, how does the question of the management of information about the 'child's' origins both contribute to, and learn from, these further discussions?

In discussing the contrast between the clarity of the Report and the confusion of the individual members, my concern is with the difference in the formulations to be found in each and with the apparent acceptability of the Report formulations to the members, none of whom had any negative comments to say about it. I am curious therefore about how the members reasoned the acceptability of the Report to themselves.

On one level the Report could simply be seen as a document of compromise. This is the explanation that was implied by the member who described the paragraph advocating the two-parent heterosexual household, as 'weasel words'. Others, in commenting on the Report in the final section of the interview also suggested this.¹ Outside commentators

have made similar observations about the Report: Audrey Leathard, for example, described the Report as 'treading the middle ground' (1986:17). Similarly, Lockwood congratulated Mary Warnock for 'welding the evidently very disparate views of her committee' to produce 'a model of what a government report should be: lucid, fair-minded' (1985:86). Finally, Mary Warnock herself suggested that the recommendations in the Report, 'did not outrage the feelings of too many but cannot reflect the feelings of all' (1985a:xvi). Certainly the idea of a compromise has its attractions as it implies a process of active negotiation and careful thought, rather than the idea that the Report was based on (as Watson, amongst others, has suggested), 'an unexamined set of conservative social assumptions' (1984:14).

However, the idea of a compromise also tends to suggest a negotiation between (at least) two clearly articulated positions, both of which could consciously move to a third, also clearly defined, position. However, the interviews do not bear this out, since in that context at least, members were unable to position their views so clearly, other than on the larger, cruder distinctions as mentioned in Chapter 5. I suggest that what we find instead is not so much a compromise between two positions but rather, a more generalised suspension of the difficulties raised by the technologies. The consequence of this was that a version of the discussions was presented in the Report, which seemed to provide for not too many disagreements. That is, one version of the family prevailed in the Report, even though this did not accord with members' experiences of the reality of trying to work their way through these issues and despite the difficulties that the new reproductive technologies presented for that version of the family. This was not

however simply a 'retreat' or a suspension of thought, but rather another stage of the reasoning process about the relationship between the technologies, the family and social policy. That is, the decision to write and/or accept a particular version of that relationship itself depends on a view of what is an appropriate way to produce recommendations on issues such as these. Morgan, for example, makes the general point that,

persons involved in the framing and enacting of legislation both draw upon conventionally held notions of familial relationships (or more complicatedly, upon notions of what these conventional notions are ...) and, in so doing, reinforce these notions through their public pronouncements or through their deployment in law and judgement. (1985:72)

It is the statement in brackets which explains the format of the Report. Members discovered their own notions of family relationships shifted in the light of the new reproductive technologies; since they nonetheless had to reach conclusions, rather than try to resolve dilemmas which they could not always even articulate, they instead presented a Report which acted as if those notions of the family, which they took to be shared by most people, could act as a baseline against which the various measures could be evaluated. This was done, not to draw a veil over their dilemmas, but to reach a conclusion and thus recommendations for policy. Warnock has written,

When we are faced with such massively difficult calculations, where the unknown factors are literally innumerable, the principle of utility (the principle that we should so act as to maximise benefit and minimise harm) offers little or no practical guidance. Does it follow, then, that where public policy, policy for a whole society, is in question, utilitarianism should be abandoned? Should we instead seek a kind of consensus, derived from what people vaguely feel about their origins, their roots, their commitments to their own children....? Are we simply to try to think what sort of society we would feel it tolerable or intolerable to live in? I suggest that in the end this is what we must do. (1985b:1952)

To follow this particular solution, of accepting a vague idea of what might be right even in the face of such 'difficult calculations', or more specifically, to invoke a notion of the family as a solution to those difficulties even though it is precisely that concept of the family which is the source of and under threat from such difficulties, is not that unusual. Bernardes, for example, claims,

In the course of my research I have found evidence to support the possibility that everyday actors can and do hold apparently contradictory ... concepts of 'the family'.... Moreover ... as the notion of variation and diversity of family forms is popularised everyday actors (and indeed politicians) can happily accommodate diversity as well as offer arguments to support or encourage the 'independence' of 'the family'. (1985:203)

Indeed, later he argues not only can everyday actors do this,² but in fact they must be able to do this to 'minimise dissonance or ambiguities in everyday social life' (1985:205-6). His argument is based on the idea that individuals' experiences of their own family life differs from their view of family life as presented in the dominant 'family ideology', these being the two views they happily accommodate. I would argue that the committee members are doing the same, accommodating what they take to be their own personal puzzles about the nature of the family, with another view of what the family 'really' is. The point being that this perspective demands that the analyst has to investigate how everyday actors work with their awareness of a 'dominant ideology', rather than assume they simply echo the ideas of that ideology.

It might be that this dual (at least) notion leads to inconsistencies, as we saw in Chapter 5, but as Burton and Carlen point out about 'official discourses', 'an exposure of their inconsistencies (does not) make the discourse incoherent' (1979:68); rather, it reveals the reality of the complexity of common-sense reasoning on everyday

concepts. It is not therefore the case that these inconsistencies should be taken as a sign of weakness or incompetence, since that would imply that they were ultimately resolvable, somehow, somewhere by somebody. This is not necessarily so. The source of the uncertainties and imprecisions which troubled the members lies not within the members themselves, but in the topics with which they were grappling. It could legitimately be asked however why the difficulties the members experienced were not presented for public perusal instead of being subsumed under an apparent unity which seemed to promote a particular set of values? Bernardes suggests what the consequences of this would be,

One (and only one) of the reasons is that dominant groups and institutions have fiercely resisted any public move away from the notion of 'the family', not only because of the strength of family ideology, but also because of enormously wide-ranging (and astonishingly complex) policy reformulations that would be required if social policy attempted to deal with family 'reality' rather than attempt to corral all families into behaviour and lifestyles conforming to the image enshrined in family ideology. (1985:206)

Thus, the committee members made recommendations for practical policy. Though they were able to contemplate a range of family forms they found the complexities of evaluating those forms were made easier by reference to one particular form, which then became the basis of their recommendations: the two parent, heterosexual family.

The second question to emerge from the interview data was the nature of the members' confusion over the family and the importance or otherwise of having a biological (genetic or carrying) relationship between the parents and the 'child'. Crudely their confusion could be characterised in terms of whether they saw, in everyday terms, the family as primarily a social or biological grouping. Initially, most entered the committee

discussions with rather vague and contradictory ideas about the family, which, as we have seen from Bernardes, would not be at all unusual and might in fact be an advantage, allowing flexibility of meaning and usage. Harris for example points to the diverse ways in which we use the term 'family' in everyday conversations which attach multiple meanings to the term but which, in each particular context, retains clarity of meaning (1983:30-31). However, participation in the committee forced members, initially, to try to pin down their ideas of the family and this caused them difficulties. The nature of their difficulty lay in the wish to take biological relationships between parents and children as the norm and therefore important, whilst acknowledging that this had to be modified according to circumstance. This led them to try to balance the importance of biological ties against the importance of an appropriate family life, based on social relationships. Though they each reached different conclusions about this and those conclusions themselves differed according to the particular reproductive technologies, the starting point for the discussion lay in the view that biology itself is a given, a natural fact from which certain consequences follow. In other words, whether members concluded that biological relationships between the nurturing parents and 'child' were necessary or whether they concluded they were not, the starting point for the discussion was still the biological link. Therefore, exploring the presuppositions of this stance could help to clarify members' difficulties.

An idea of the importance of biological relationships in the family is consistent with the dominant ideology of the family which Bernardes relates to the, sociologically speaking, functionalist perspective on the family. Bernardes argues that functionalism is expressed in everyday

terms, by non-theorists, as a form of pro-family ideology:

Clearly everyday actors draw upon this extant ideology in forming their own opinions and moral evaluations of family life. (1985:197)

In formal, Parsonian, terms the nuclear, heterosexual family would be the most valuable to society because of its effectiveness in socialising the child and providing stability for the parents. These social functions derive from a sexual division of labour which is based on the biological relationship between mother and child from pregnancy, birth and early child care (Morgan, 1975:25-42). A lay version of this therefore would have difficulties with a family where, for instance, the mother did not have that biological link with the 'child' or where the father's commitment to the family was not similarly guaranteed by his genetic tie to the 'child'. Conversely, we can also see that a lay version of this model would provide a rationale for conflating the interests of the 'child' and the adults with the family unit. Thus, we can see the source of some difficulties which some members had, particularly those who held traditional views of the family. However, even those with less traditional views would still have certain puzzles since elements of this analysis survive according to Morgan, because of,

the apparent universality of the family. Another [reason] is the apparent connection between the institution of the family and certain biological imperatives. Such imperatives would include the fact that sexual reproduction requires a male and female, that women bear children, that while the identity of the biological mother is never in doubt, that of the biological father may be, and the fact that human infants require a long period of care and protection by more senior members of the human species (1975:19).

Thus, in this view of the family, though the biological and social factors are closely intertwined, ultimately it is the 'given' nature of the biological base which is seen to justify the particular arrangements of the social superstructure of the family. This model of the family

remains so pervasive, it is implied, because its biological basis makes it so persuasive.

However, it is exactly at this point that the views of the family, held explicitly or implicitly by most members of the committee, began to founder under the possibilities of the new reproductive technologies, since the NRTs disrupt the fundamental starting point for those who invoke the traditional family. If those views on the family are held and those views are in turn seen to depend on biological givens, presumably those views are undermined when the biological factors are no longer certain. This is compounded by the fact that not only was the biology open to question but that it could no longer be considered a singular concept with a singular meaning. That is the very fact that the committee members were dealing with the full range of third party conceptions, rather than just one variety, such as AID, meant they had to deal with a genetic, a carrying and a genetic-plus-carrying version of biology.

Each of the biological imperatives mentioned by Morgan presented difficulties for the committee members. For example, sexual reproduction no longer requires a direct relationship between a male and a female; women no longer have to bear their own children, because of surrogacy; when women do bear children, the children might not be 'theirs' genetically, nor necessarily their husband's genetically; the identity of the biological mother can now be very much in doubt and indeed the concept of a 'biological' mother is no longer adequate, since it requires a further distinction between genetic and carrying; the ever-present uncertainty of the biological father is now extended and finally, it can no longer be presumed that a biological relationship between the mother

and 'child' will lead inevitably to a nurturing relationship.

For the family as a whole the lack of full biological connectedness, within a functionalist view, goes beyond the biological and even social reality, into questions of moral status. As Morgan, in a later work, argues,

For a very complex set of historical reasons, the opposition between family/natural/moral and anti-family/unnatural/immoral can be sustained almost without effort (1985:62).³

The functionalist view of the family therefore rests on assumptions about the biological links between members of that family, the absence of which not only raises questions about each individual member's role and contribution to that family, but also about each individual's place in society and ultimately about the moral status of that family in society. Though this has been expressed at a level of analysis that members were not concerned to express it themselves, we have only to remind ourselves of the fears expressed by the Archbishop of Canterbury's Commission, originally quoted in the second chapter:

Once the physical basis of these bonds is in doubt and the family's essential kinship called in question, there can be no certainty that the moral obligations enacted upon it will survive unshaken. (1948:31)

Whilst this is a more 'conservative' view than that expressed in the Warnock Report (the Commission did after all call for AID to be criminalised whereas the Warnock Report did after all call for its retention) we nonetheless know from the interviews that members did struggle with the appropriateness of creating families without any genetic links between parents and 'child' and were not that settled about creating families with only partial links, as in AID. These were all 'steps' away from an unstated norm. However I am not trying to make

these views appear naive, as though holders of such views could not conceive of anything other than purely biological relationships between parents and 'children' in a family. As Morgan observes, the term 'family' can be used to discuss,

relationships between persons which are understood by these persons to be in terms of blood or marriage or which are understood to have an equivalent status as these relationships (1985:66, emphasis added).

However, I have added the emphasis to that quotation because it was one of the central problems for the committee members as to what, in the context of the new reproductive technologies, was to count as the equivalent of a 'blood' relationship. There was a problem of equivalence in two senses: first, whether the relationships between individuals, created through the NRTs, were equivalent to biological relationships and second, what was to count as 'blood' or 'biology' in the NRTs. In terms of the latter, since biology could break down into genetic and/or carrying, were these each to be seen as a full biological relationship or just constituent elements of such a relationship? And did the same criteria apply to male and female relationships? That is, for the man it might be assumed that the replacement of one gamete for another (on the simplest possible terms) could count as an equivalent relationship, but in terms of the female position we saw that members struggled to decide whether the genetic relationship was equivalent to the carrying or whether one was more important than the other. On top of these difficulties it still had to be decided if the nurturing relationship was the equivalent of the biologically based relationship. Therefore, for the committee members, the question of equivalence was very difficult, not just because the concept of biology no longer had a singular meaning, as mentioned earlier, but also because the boundary to the range of

possible meanings was imprecise. Nonetheless it was the knowledge that there were these equivalents to biological relationships already in existence in families that appeared to be, from the interviews at least, what allowed them to accede to the use of third party conceptions. Processes like adoption, which appeared to produce stable families, even though seen by some members as 'second best', showed that non-biologically related families were possible.⁴ Plus, members' awareness of the number of AID families already in existence without apparently any great harm, convinced them of the acceptability of these processes as a basis for a family. However, the fact that these families created through adoption especially, only came about as the result of well-recognised and well-organised state procedures, in the public domain, also helped members to accept third party conceptions as long as they could aspire to the model of similar practices such as might be provided by a Statutory Licensing Authority. It is perhaps not a coincidence that those who signed the minority report on surrogacy suggested that it should be regulated in a way similar to that of adoption and fostering.

Though these other family forms provided a model for the pragmatic decisions recorded in the Report we know from the interviews that this did not resolve the question of the importance of biological ties. One of the perhaps more remarkable aspects of the interviews is the degree of uncertainty in members' views even four years after the Report was published and after these issues had been subject to extensive public debate. However that public debate had not resolved these questions either, so the members were not alone in their difficulties, though as we have seen those difficulties led them either to give up trying to answer

the questions or simply to invoke their 'gut feelings'.

This is not to say however that everyone finds these issues of biology and ideology irresolvable, since an extensive body of work by feminists and anthropologists provides an alternative perspective on these issues. The ideas proffered by these groups were either not available to, or were rejected by, the members of the committee: the interviews show evidence of both. The solution lies in the way its proponents actually change the basis of the discussion by interrogating the notion of the 'natural' and the 'biological'. One of the most frequently cited authors is Edholm (1982) who questions assumptions which see the family as a natural primary unit of parents and children in which socialisation occurs, through the obligations and interdependence of family members; she argues that cross-cultural beliefs on conception, incest, parent-child relationships and marriage show such a wide variation that the concepts of biological ties and kinship have to be seen as socially constructed rather than as fundamental building blocks from which other family relationships arise.⁵ Chodorow takes this argument further into the centre of the functionalist explanation for women's role as mothers when she argues,

The biological argument for women's mothering is based on facts that derive, not from our biological knowledge, but from our definition of the natural situation as this grows out of our participation in certain social arrangements. (1978:30)

This is not purely an argument from feminism, though it is that group which has developed the theory furthest; it is also an argument from within the sociology of knowledge and relates to how we even classify our knowledge of the world.⁶ Turner, for example, points out that,

biology is itself socially mediated and biology is a classificatory system by which experiences are organised There are no neutral

criteria for judging what is valuable or real and to admit that there are biological differences ... may be perfectly admissible, but it necessarily means the adoption of a perspective. Biology is cognitive systematisation (Rescher, 1979). Biological facts exist but they exist by virtue of classificatory practices which preclude fixed points (such as 'nature') precisely because we inhabit a world that is perspectival. (1984:28)

Stanworth argues that it is precisely this social nature of parenting and families which is exposed by the new reproductive technologies: former 'biological givens' are now open to debate (1987:2). From that angle the new reproductive technologies are seen by many feminists as potentially very liberating⁷ because it means debates such as this have to be entered into, whereas members of the committee have found it to be very problematic.

My purpose in drawing out this contrast between the position of the Warnock Committee members (and others who work with ideas derived from a functionalist view of the family) and the position of feminists is not however to prioritise one over the other, or to use one to show the weaknesses of the other, since that would be just to advocate one ideology over the other.⁸ Rather, it is to point out that the debates the committee members were having with each other, and indeed with themselves as they tried to answer my interview questions, over the question of biology and the family are simply indicative of the nature of the debate which occurs in a much wider forum and indeed on a broader range of subjects, primarily on a theoretical level between functionalists and feminists. The very fact however that most of the committee members actually entered into a debate over these issues rather than simply asserted one view rather than another, shows that these were ideas that they had to work with, rather than simply apply without question.

Finally, I asked at the beginning of this chapter what the management of information about the 'child's' origins could contribute to and learn from, the above analysis. The answer can be stated fairly briefly, since this issue represents the members' dilemma over the social or biological basis to the family, in miniature. In terms of the 'lay functionalism' described above, the apparent biological basis to the nurturing relationship will lead to concerns being expressed both about the lack of a full genetic relationship in nurturing families using third party conceptions and about the existence of a biological tie elsewhere which might itself demand an emotional commitment too. We have seen that members suspected the genetic tie was important to parents and was not unimportant to 'children' too, hence the wish to give them information about the third party. At the same time however, they are much more certain about how a family operates on a social basis in so far as they felt sure that secrets in the family were bad, as well as holding the view that no family units should be disrupted. However, that fear of disruption actually returns the discussion to the imperative of the genetic ties since it is based on the assumption that simply because of the existence of such a tie, there would be the need for some sort of contact. However, if it is the case that that biological tie is so powerful that families need to be protected against it, there must also be a question hanging over from the more traditionalist view, about the appropriateness of creating families which distort that tie in the first place.

Most members did not think through their position to this level of analysis of course. Most were aware of some sort of conflict, though it was one they saw as a conflict between the individual 'child' and the

risks to the nurturing and donor families. Anonymity was therefore seen as a device to avoid complications (even though the full range of possible complications was not addressed in terms of reference to the full range of the technologies), on two levels: complications within the various family units and complications which would become apparent again, as soon as they tried to discuss the role of biological ties in families. What in fact anonymity does of course is actually expose the tension between the social and the biological as perceived by the members as oppositional forces in the creation of families. If members had full confidence in the social foundation of family life no threat from a genetically related third party would be perceived; if the members had full confidence in the genetic foundation of family life, no third party conceptions would be allowed. It is the fact that they are caught between the two which causes them difficulties and leads them to resort to mechanisms such as anonymity to avoid or even resolve their dilemma, when in fact it simply exposes that dilemma.

To sum up this section it is not adequate to describe the position of the Warnock Committee members on the new reproductive technologies in general, and on the question of origins in particular as either invoking simply a dominant ideology of the family (as I tend to suggest in Chapter 3) nor as adhering to a fundamentalist belief in biological ties (as Achilles (1986) might argue). Rather, their position must be attributed to a complex and apparently irresolvable tension between the two. In describing them as such, I have located their difficulties as being indicative of a much wider set of debates within sociology and thus within the social world.

Future policy developments

This section tries to move beyond the theoretical concerns of the thesis to see if the discussion hitherto can help us to speculate on possible developments in practical policy, on the management of information about the 'child's' origins.

We saw in Chapter 2 that policy developments had moved as far as a government White Paper, based on the Warnock Report. As a brief reminder, the government's position in the White Paper on the management of origins information was that all adults over the age of eighteen should have the legal right to ascertain whether they had been born following gamete or embryo donation and those that were should have access to non-identifying information about the donor. The possibility of providing identifying information in the future was kept open, with the additional possibility that access to that information might be made 'retro-active'.⁹

Since most of this thesis is geared to understanding a policy of 'openness, plus anonymity' it would be useful to try to estimate the effect of removing anonymity, especially as the thesis also contains certain claims about what anonymity both achieves and represents. However, the only empirical evidence available by which to estimate this effect is the very sparsely reported data from Sweden, therefore I shall also use the analysis contained within this thesis and from the previous research on adoption (outlined in Chapter 1) to speculate on the range of possible outcomes (mostly medium and long-term). These speculations will be divided into two layers: first, the likelihood, in each procedure, of the third party being named and in particular, being named retrospectively; and second, the likely impact of adults seeking access

to the identity of their genetic parents.

Retrospective naming

AID. With the combination of the White Paper provisions, plus the views of other prominent commentators which suggest this will happen in about eighteen years' time (eg Snowden, 1988; 1989) and finally the increase in the lobby of AID adults, I would suggest that legislation to name sperm donors is quite likely to occur. I doubt that it will be made retrospective, however for the following reasons:

- (a) the general principle against retrospective legislation is strongly formulated and in this case will be probably opposed by the clinical profession (see Chapter 3);
- (b) medical confidentiality might be invoked, by converting the donor retrospectively to the status of a 'patient' (see Chapter 3);
- (c) it was difficult enough to get similar legislation in adoption passed and there probably is not the same degree of parliamentary backing for this proposal (see Chapter 2);
- (d) retrospective access made greater sense in adoption where record keeping was better maintained than in past practice in AID (see Chapter 3);
- (e) in adoption there was already the possibility of access to this information through the courts or if the individual already knew his/her own original name, so the access legislation could be framed as not such a major change after all; this is not the case in AID (see Chapter 1);
- (f) to avoid possible legal complications, the government might prefer not to name men who donated prior to the removal of legal parental

responsibility from donors;

- (g) to make access to identifying information effective there will be a need to ensure that all other practices previously associated with sperm donation comply in an appropriate way, eg there would be a need to construct full records of frozen sperm, mixing of sperm would have to stop and so on; past practices make this difficult to effect retrospectively (see Chapter 3).

Therefore, with government support I suggest that sperm donors will be identified in the future, but retrospective legislation is unlikely.

Egg donation. As we have seen anonymity is less strictly enforced in this practice but there is an irony in this since, as egg freezing techniques improve, the possibility of anonymity also increases.

However, if sperm donors are named it is likely that egg donors will be too, for the following reasons:

- (a) there is evidence that egg donation is regarded as more acceptable and therefore it might be regarded as less damaging to be so identified (see Chapters 3 & 4);
- (b) it is likely that being a more recent innovation, better records will have been kept;
- (c) there are fewer legal complications to naming egg donors (see Chapters 2 and 3);
- (d) AID has acted as a model for egg donation in the legislators' eyes so far, so it is likely to be a model for this purpose too (see Chapter 3). However, on the grounds of fairness and neatness, it is unlikely that this would be made retrospective if access to the sperm donor's identity is not made retrospective.

Embryo donation. Given the slight hesitation about embryo donation as

a practice there might also be an initial hesitation about naming both an egg and a sperm donor, but the logic of allowing the same treatment for all procedures is likely to prevail. However, one particularly interesting issue is raised in embryo donation which does not occur in either sperm or egg donation concerning the use of donation by lavage: if this practice improves and increases is it likely that the early carrying mother would be named too? I find it difficult to speculate on this since her role disappears in most discussions (with the exception of Spallone, 1987:174); however it will be illuminating to monitor any discussions on this aspect since that would provide further examples of how decisions are reached about 'who counts' in the creation of a baby.

Surrogacy. As with embryo lavage it might be redundant to consider the likelihood of surrogate mothers being named since, in the UK at least, commercial surrogacy is banned and the government intends to offer no encouragement to the practice of private surrogacy. Indeed the White Paper discussions on identifying information refer only to gamete and embryo donation. Therefore, whilst private surrogacy might continue the handling of information on the 'child's' origins will also, it seems, remain a private matter (as indeed it would in do-it-yourself AID). However, the Glover Report argues that there is a case for the 'child' having the right to know the identity of the surrogate mother (1989:80), though again such rights could presumably only be given or claimed if the practice itself were given a formal legal status. Were this to happen it would be interesting to note if any distinctions are drawn between the different types of surrogacy, that is, between genetic and gestatory surrogacy (and, in the latter, between those 'gestating' the embryo formed from the commissioning parents' own gametes and those formed from

donor gametes). Again, it is through concrete decisions such as these that we begin to get clues as to the cultural relevance of different aspects of child-creation. However, it is perhaps because of complex questions such as these that the issue of access to identifying information is rarely raised in relation to surrogacy. Another reason might be that most cases are assumed, at least until recently, to have involved women known to the commissioning couple anyway, so the nature of the issue changes, from being concerned with the official release of information to the 'child' to one of intra-familial release of information from parents to 'child'. A brief consideration of this aspect would be fruitful since it affects, potentially, all forms of third party conceptions. This topic will therefore be included in the following discussion of the likely impact and outcome of providing access to identifying information.

Impact of access

Having speculated that with the exception of surrogacy, third parties are likely to be identifiable in the perhaps not-too-distant future, it is now necessary to ask what impact this might have on the protection and promotion of 'familyness' and the family unit. Again these ideas are essentially speculative, since only limited direct empirical evidence exists to verify them. However, this is another situation where earlier research in adoption can alert us to the range of social consequences, particularly at the institutional level. The following (adapted from and added to, Haimes 1989) might be some of the possible outcomes.

- (i) access to the names of third parties is unlikely to entail direct contact between the 'child' and the third parties themselves, since if

the experience in adoption (Haimes and Timms, 1985) and the arrangements in Sweden are anything to go by, requests for information are likely to be filtered through professional structures, such as social workers and counsellors. Thus the dangers thought likely from direct contact with third parties will be lessened by the use of intervening stages, which will possibly be deliberately directed at discouraging attempts at contact or at encouraging the individual inquirer to consider the impact of contact on the third party's family and his/her own nurturing family. Thus the removal of anonymity would not automatically mean direct contact nor therefore the loss of protection that both families are perceived to need.

(ii) It is possible that the offspring's request for the third party's name will be taken by professionals and administrators as an indication of pathology (see Chapter 1 for a discussion of this in adoption) which might then be attributed to a poor experience within the nurturing family (such as rejection by the non-genetically related husband, in AID). The consequence of this would be to define the inquirer as in need of other kinds of help and to marginalise or minimise his/her interest in the identifying information. The problem then becomes transformed from one of genetic anomalies and origins to one of the 'damaged' individual.

(iii) another consequence of naming third parties might indeed be damage to both the nurturing families and the families of third parties, through the release of identifying information. In other words, the worst fears of AID parents may be realised in so far as the 'child' may abandon the nurturing family, to try to seek a relationship with the third party; such attempts may also harm the third party's family (see Chapter 2 and Chapter 5). The result might be that the creation of families through

gamete donation is therefore deemed undesirable and the practice curtailed.

(iv) Adults conceived by third party intervention, having been told of their conception, might come to share the fears expressed above and, sensing a threat to their own and their nurturing parents' social identity, might contain their interest in the third party, formulating their own preference for a stable family life as being more important than detailed information about genetic origins.

(v) Third parties might prove most clinicians right, in so far as they perceive a threat to their social identity through being named as a donor, and simply discontinue their donations (see Chapter 3).

(vi) A knock-on effect from (iii) and (v) above might be the removal of access to identifying information, treating the initial access as an experiment, much along the lines recommended by the Glover Report (see Chapter 2). This would suggest the individual's desire for genetic knowledge would be subordinated to the wish to prevent damage to two sets of families, much like the suggestions from the interviewees in Chapter 5.

(vii) Rather than leading to a general diminution in donor numbers, the naming of third parties might lead instead to a decrease in the use of a particular type of donor, that is, those known to and chosen by the recipients. Currently the fact that a donor is known to the nurturing parents does not mean that the 'child' will necessarily be told this. However, if the 'child' could discover this independently fears might be expressed (as indeed they have been in the Glover Report, 1989) about the confusion and blurring of what are perceived as being normal discrete family relationships (see Chapter 5). If this is thought to cause problems for the 'child', the third party and the nurturing parents the

practice of using known donors might stop as a consequence of their being named to the 'child'.

(viii) Another outcome of identifying third parties might be that their offspring are in fact not at all interested in them, not because of the fear mentioned in (iv) above but because, for example, they deem the identity of the provider of genetic material as irrelevant to their lives. This outcome would suggest two things: (a) current AID adults pushing for information are exceptional in some way for wanting this information (see Chapter 2) and (b) that the experience of being born as a result of gamete donation differs from being adopted in so far as the identity of the other people involved in one's conception or birth is concerned.

(ix) It is possible that if only certain countries develop a policy of identifying third parties, the international trade in the NRTs will develop further; there is, some (albeit thin) evidence from Sweden that couples are seeking gamete donation in other countries, to avoid their 'child' being able to discover the donor's identity (cited in the White Paper, 1987:14).

(x) One final outcome may be that the links formed between third parties, couples and adults conceived through gamete donation may lead to a change in assumptions about 'ordinary' families. This might be deemed desirable or undesirable, according to one's other socio-political views.

These outcomes are of course highly speculative and are not mutually exclusive or exhaustive. However, neither are any of them implausible, even though some point in opposite directions. It is important to note that each outcome derives its impact from its effect on family life, even

those apparently contradictory outcomes. Thus, even though the debate over whether or not to reveal the third party's identity can be seen as highly divisive, both sides depend on notions of the family to defend their claims: only the last outcome suggests a possibility different from this.

Future research

It is clear from the above section that there are still many areas even in this narrow aspect of the new reproductive technologies of which we know very little. Therefore I now turn to the traditional task of identifying areas which require further research, though this exercise is particularly important for this topic, for two reasons: first, these developments, with the exception of AID are so new that we in fact know very little about any of them; second, with specific reference to AID, it is the secrecy with which this thesis has been concerned, which has prevented much of the research being carried out hitherto. Thus, the very exercise of identifying areas of future research itself adds to our understanding of the social context of these practices.

In chapter 1, I identified in diagrammatic form, a number of perspectives on the question of origins: nurturing mothers, nurturing fathers, 'children', professionals, interest groups, churches, legislators and third parties. All these areas require a great deal of research and in particular the relationships between some of these different aspects would merit detailed examination. However, arising out of my study here I think there are three particularly important areas which require much more work: the 'children', the third parties and the policy dimension.

The perspective of the individuals who have been created from the use of third party conceptions is noticeable by its absence in all analyses. It is essential to gain their views on their experiences, in as wide-ranging a way as possible, so that this can influence future policy developmens. Such a study, which eventually would need to go beyond simply those conceived by AID, would be able to explore their common-sense reasoning about the significance of their biological origins and the impact this has on their relationship with their nurturing parents. Whilst a study such as this might concentrate on the individual's perspective, other dimensions relating to the offspring could be explored both by studying whole families and by a comparison with 'children' in other groups. The former would be, in effect, an up-date and extension of the studies by Snowden et al, seeking to incorporate the families created by egg and embryo donation, and surrogacy, to compare with those created by AID. It would be revealing for my interests to discover whether there were differences between the management of origins information by the different types of family. Equally a comparison between groups of 'children' with different configurations of the biological-social relationship in their family settings would also be revealing since it would enable us to identify more precisely those aspects of their experiences which differ from and those which are the same as, an assumed norm of biological parents raising their biological children. Such a comparison could cover individuals conceived by AID, egg donation, embryo donation, genetic surrogacy and gestatory surrogacy as well as 'children' who have been fostered or adopted, or who have experienced step-parenthood. Clearly such studies could encounter ethical and practical difficulties (the

numbers and ages of 'children' conceived through egg donation are still both likely to be very low, for example) and these must be carefully considered in any research design, but on the other hand they should not be used as an excuse to prevent good quality research, in an attempt to keep such practices closed to the public gaze.

The second area which requires further sociological research concerns third parties, in order to explore their views further. Studies of sperm donors are becoming more prevalent and are to be welcomed, but they now need to be extended to cover egg donors and surrogates as well. Their views on the act of donation, on the gamete recipients, on the 'children' as well as on their own families can only help enhance our understanding of the comparative importance of genetic, carrying and social relationships in concepts of 'parenting' and the 'family'. Systematic comparisons might be made between the views of those acting as genetic parents, carrying parents (including the short-term carrying mother in embryo lavage) and nurturing parents to explore the forms of parenting. Comparisons within each group would be illuminating. For example, how do the perspectives of sperm donors compare with those of egg donors, and those of genetic surrogates compare with gestatory surrogates? Furthermore, comparisons between the use of known and unknown third parties would contribute to analyses of the intention and consequences of secrecy and anonymity. Equally, comparison between the use of known, but not related, third parties with related third parties would clarify further our everyday notions of genetic relatedness and family roles.

Finally, the broader social context in which I have argued studies of 'children' and families and third parties must be placed, requires

further investigation to monitor developments in, and the impact of, professional, legislative and administrative structures. Studies of aspects of policy will provide insight into these and can be conducted both within the UK, and between the UK and elsewhere. Specifically the experiment on identifying sperm donors, as recommended in the Glover Report if it is even launched, will require careful evaluation; also the situation in Sweden, about which there are so many conflicting reports, requires proper analysis, from all perspectives, to assess fully the impact of identifying sperm donors. As Chapter 2 has demonstrated, there have been radical changes in policy between the Archbishop's Commission in 1948 and the Glover Report in 1989: future policy developments are likely to be just as radical and therefore need careful evaluation.

Summary

In this final section of the thesis I shall present a summary of the key points from each chapter. In the first chapter I established that the central substantive topic in this thesis is the management of information about the origins of a 'child' not genetically related to both nurturing parents, owing to the use of a third party in his/her conception. I suggested that the prevailing style of management has been to keep those origins secret. This led to other questions, such as how did that secrecy arise and what does it convey about attitudes towards third party conceptions? Underlying these interests was a theoretical question: what could these issues tell us about our everyday understanding of the biological factors in family life? Although I rejected the view that adoption could act as a template for resolving the issues surrounding the management of the 'child's' origins in the new

reproductive technologies, I nonetheless argued that my own previous research on adoption was useful in pointing to the inadequacy of investigating the issue of biological origins as if it were solely the problem of crisis in an individual's sense of identity. I argued instead that an analysis of the institutional and professional structures which create the wider social context in which the issue of origins is embedded is necessary. I suggested an appropriate focus might be the committee given the task (amongst others) of resolving the problem of handling origins from third party conceptions as a contribution to the development of government policy on the new reproductive technologies. By investigating the work of the Warnock Committee through an analysis of their final report and through a series of in-depth interviews with the members I surmised that it would be possible to uncover the concerns deemed relevant to the management of this issue, whilst at the same time, avoiding a reductionist analysis.

In the second chapter I sought to locate the work of the Warnock Committee in a broader context by considering how the management of a 'child's' origins had been handled by others. This provided a historical view of other policy-oriented groups as well as a contrast with the handling of this topic in the more informal family setting. I argued that, from this survey, three different strategies of management could be identified. The first strategy entailed absolute secrecy about all aspects of the third party conception; the second strategy was one of greater openness, removing secrecy about the use of a third party but ensuring, nonetheless, the continued anonymity of that third party. The third strategy involved complete openness about the conception, to the extent of giving the resultant 'child' access to identifying information

about the third party. The Warnock Report exemplified the middle strategy which, I argued, is also the most interesting given the (at least implicit) need to satisfy the questions raised by the other two strategies.

In the third chapter I explored the suggestion that the Warnock Report recommendations could be seen as a reaction against the prevailing secrecy in third party conceptions. This explains the call in the Report for greater openness. However, in seeking then to explain the retention of third party anonymity I argued that the Report contained basic inconsistencies, in so far as the reasons cited for retaining anonymity pertained to the use of the third party rather than to the identity of the third party. These reasons could therefore be read as grounds for abandoning third party conceptions, though these were in fact defended in the Report. Alternative explanations were therefore needed and I proposed that these might be found by viewing the use of third party conceptions in the light of the committee's views on the full range of new reproductive technologies. I argued that the committee appeared to take a comparative approach to these technologies, which they evaluated in terms of their ability to create ideologically, structurally and biologically 'normal' families. On these grounds, AIH was easily accepted, surrogacy was (relatively easily) rejected (along with single parent and homosexual parent families), but gamete donation was in an anomalous position, since the families thus created were ideologically and structurally like ordinary families, but biologically they were different. I argued donor anonymity was preferred therefore because it provides extra support to the legal measures which attempt to replace the assumed effect of the full genetic ties, that is, of attaching the

'child' to the nurturing family. The attachment to the family occurs through the detachment of the 'child' from the donor. This presumes however that the biological link is regarded as some sort of primary pull against the social and legal attachments; a pull which needs to be diminished to preserve the integrity of the nurturing family. Anonymity would help to diminish that pull.

However this analysis raised further questions of detail contained within the Report, concerning first the distinctions drawn between surrogacy and other third party conceptions; second, the erosion of the necessity for anonymity in egg donation; third, the suggestion that legal measures are insufficient to attach 'children' to nurturing parents. Finally there was the question of the extent to which these explanations adequately reflected the committee members' perceptions of these issues. Chapters 4 and 5 presented the analysis of interviews with members of the committee which allowed the suggestions in the preceding chapter to be tested. The interview data in Chapter 4 showed that members drew quite clear distinctions between the four types of third party conceptions in a way which was not apparent in the Report. Sperm donation was viewed with much greater uncertainty than egg donation; embryo donation raised questions about the importance of genetic relatedness, which nonetheless remained unanswered; surrogacy still provoked much debate but was not as firmly rejected by the members as the Report suggests. This indicates that members worked with finer distinctions than my initial analysis allowed, since each type of gamete donation raised different issues for the members. The relationship between genetic and carrying factors in both embryo donation and surrogacy was never fully resolved and members resorted to expressions of 'gut feelings' when their views appeared

incapable of clearer expression. Therefore, although all the gamete donation procedures were grouped together in the Report under the common need for anonymity and hence in my initial analysis, members resisted seeing them as equivalents, or even giving rise to equivalent problems, in the interviews. There was evidence to suggest that the different perceptions which the members had of sperm and egg donors influenced the degree to which they would relax the principle of anonymity. The interview data in Chapter 5 show that members were not really clear about the 'child's' position regarding knowledge of genetic origins but suspected that anonymity was probably better all round to save both the nurturing and the donor families from disruption. Equally, they expressed uncertainty about the overall importance of the role of biological (genetic and carrying) factors in constituting the family, but resolved the uncertainty by reference to the general value of family life. In other words, they did not relate anonymity directly to the question of the biological anomaly of families-by-donation but resolved their dilemmas over both by reference to some favourable (though not always clearly defined) notion of "family-ness" and family life. That notion then took precedence over the interests of any individuals, either desiring 'privacy' (as nurturing parents) or 'identity' (as 'children') or 'anonymity (as donors).

Once again members were not always able to articulate their views clearly. When they were able to itemise their views a paradoxical aspect of their reasoning was revealed: on the one hand they tended to want to resolve these complexities by reference to a normative model of the family but found that this model was increasingly difficult to pin down in the face of these procedures. On the other hand, that model

nonetheless prevailed as a pragmatic solution to those difficulties, despite the fact that it was exactly those difficulties which seemed to expose the weaknesses in the model. That is, members appeared to operate with a notion of the family which became increasingly imprecise but which they still regarded as powerful enough to resolve the complex issues raised by the NRTs. However, it is clear that the way in which they reasoned their way through these puzzles was rather more complex than the simple application of a dominant ideology.

In this final chapter, I have attempted to move beyond the specifics of the empirical data to speculate on broader theoretical and practical issues. First, I suggested the Warnock Report was written not as a simple echo of a dominant ideology but as another step in the members' reasoning procedures about the appropriateness of suspending conceptual difficulties in order to reach a series of pragmatic resolutions. This did not solve their difficulties which I suggested lay in the dichotomy they had established between the family as either a social or a biological grouping. I suggested that the question of handling information about the 'child's' origins conveyed that dichotomy in miniature. I then speculated on possible developments in policy, partly to return the discussion to practical issues and partly to test the logic of the central arguments presented hitherto. I suggested that in most developments a pragmatic concern to protect the 'integrity' of family units will prevail, as it did in the Warnock Report. However, my final point was that there were still a great many areas of even this narrow aspect of the new reproductive technologies which would benefit from further investigation and sociological analysis.

Notes

- 1 Lack of space has prevented a detailed presentation of these data but direct comments were made by members 01, 02, 04, 06, 10, 11, 14. Data already presented in Chapters 4 and 5 on the inclusion of particular statements about the family can also be read as evidence of this.
- 2 See McWhinnie (1986) for a very clear example of this.
- 3 Douglas (1966:3), Turner (1984:28) and Elias (1985:79) all comment on the conflation between 'natural-normal-moral-good' as terms which appear to have a common currency; the family is just one arena in which this occurs.
- 4 Humphrey and Humphrey conclude their book by saying, 'Where parents and children are genetically related, so much the better; where they are not, this is no reason why the reconstituted family should not still provide the foundations for healthy living' (1988:177). It is interesting to note that they also cite Parsons and Bales in their discussion of forms of surrogate parenthood, through which they argue the values of the nuclear family can still be defended (1988:170-1).
- 5 See also O'Brien (1981).
- 6 See also Jordan, who asserts that the division between the biological and the social has no ontological status (1983:1).
- 7 Not by all feminists however, as some see the NRTs as very threatening to women who will be the site of experiments aimed at developing further technologies: see, for example, Arditti et al (1984) and Spallone and Steinberg (1987).
- 8 This is not to say that the participants in this debate do not explicitly prioritise one set of views over the other; see for example Mitchell, who refers to the attack on the family by 'a fringe-group of people dominated by extreme feminist ideas' (1986:114) and Stanworth who refers to the Warnock Committee's, 'explicit but unreasoned defiance of trends towards independent motherhood' (1987:25).
- 9 This issue still arouses much interest as the general discussion at the conference on Philosophical Ethics in Reproductive Medicine (Leeds, UK, 1988) showed.

POSTSCRIPT

HUMAN FERTILISATION AND EMBRYOLOGY BILL

Since the final chapter of this thesis was written, a bill entitled the Human Fertilisation and Embryology Bill was introduced to the House of Lords in November 1989. At the time of writing this postscript (February 1990) the bill had reached the committee stage in the House of Lords. The purpose of the proposed Act is described in the bill as,

An Act to make provision in connection with human embryos and any subsequent development of such embryos; to prohibit certain practices in connection with embryos and gametes; to establish a Human Fertilisation and Embryology Authority; to make provision about the persons who in certain circumstances are to be treated in law as the parents of a child; and to amend the Surrogacy Arrangements Act, 1985.

The bill can therefore be regarded as a direct descendent of the Warnock Report and the White Paper (see Chapter 2). The proposals concerning the management of information about the 'child's' origins are covered in Clause 13 and Clause 29. Clause 13 requires the Human Fertilisation and Embryology Authority (the equivalent of the Statutory Licensing Authority proposed in the Warnock Report) to store information about (amongst other things) people receiving treatment for third party conceptions, the type of treatment received, the donors of gametes, the children born as a result of the treatment, any mixing of donated eggs and sperm and the acquisition of embryos.

Clause 29 allows a person conceived by gamete donation to apply, from the age of eighteen, to the Authority for information, provided s/he has been given the opportunity to receive counselling about the implications of such a request. An application can be made for two reasons: to discover if someone other than the applicant's legal parent, 'might be a

parent of the applicant' and to discover if the person s/he wishes to marry, is related to the applicant in any way. A request for information about an intended marriage can be made before the age of eighteen. The right of access to this information is excluded from the Data Protection Act 1984.

These provisions establish that records will in the future be kept and the idea of applying for information from those records rests on the assumption that 'children' will be told about their means of conception. However, the details of the information to be given to an applicant remain unclear since Clause 29 states that this will be decided through the as yet unspecified Authority regulations. It is not clear for example whether the information from the Authority will name the third party, and if so whether other details such as addresses will also be made available, or whether the information will concern the applicant only, that is confirming his/her means of conception but providing no other details. The suggestion in the Warnock Report that background information about the genetic health and ethnic origins of the third party should be provided is not mentioned in the bill. Neither is it clear whether the information held by the Authority will link specific third parties to specific recipients and 'children'. Whether that information would be updated is not clear either. It would appear that the bill does not propose any alteration of the birth certificate of children conceived in this way. Finally, it is not clear whether the availability of information would be made retrospective, though since there appears to be no provision for retrieving from clinicians those records which exist of past births, this possibility seems unlikely. The provision of the opportunity to be counselled is interesting in this

respect since, in the case of adoption, counselling was made compulsory for those seeking to take advantage of the retrospective nature of the access to birth records legislation; providing optional counselling in this bill may be an indication that retrospective legislation here is unlikely. This might be the result of clinical lobbying before the bill was drafted or it might simply be a recognition of the difficulty of acquiring those past records.

In the actual debates on the bill so far the question of information about origins has received little attention other than from peers concerned with the inheritance of titles. I suspect, however, following on from the possibilities I outlined in Chapter 6, that Clause 29 will not survive unamended and that the information to be made available to applicants will be specified in greater detail. The likelihood of that information identifying third parties by name is still a matter for speculation although the government support which I identified as a necessity in Chapter 6 seems rather less certain now.

APPENDIX 1

METHODOLOGY

Introduction

In this study the data take various forms. They consist primarily of interviews with members of the Warnock Committee, but are supplemented by a small number of other interviews with individuals closely involved in these issues (a Swedish legislator, two AID counsellors, an AID adult) and by the analysis of key reports. These 'data sets' are linked by a process of theorising which has been grounded in the analysis of preceding data. That is, I started with questions from my earlier research in adoption which I explored through informal discussions with the above individuals. This led me to analyse a series of key reports in the field of AID and other reproductive technologies from which I suggested a way of categorising the different approaches to the handling of origins information. When I then focused on the Warnock Report I formulated a tentative hypothesis which explained their particular management strategy on origins in terms of their ideas on 'the family'. I then explored this contention through a series of semi-structured interviews with committee members, which I analysed with the help of sensitising concepts from my earlier work. In this appendix I shall concentrate on the methodological aspects of conducting and analysing the interviews with the Warnock Committee members.

My main reason for conducting these interviews was an uneasiness with my initial analysis of the Warnock Report, which suffered, I felt, from the structuralist weakness of attributing views of a dominant ideology to a committee, without knowing the perceptions of those individuals who

actually comprised the committee. Such an approach invests the Report itself with a degree of agency, so the Report, the committee and the individual members, become as one. This might be unavoidable if the Report were the only source of information available, but I felt it was necessary to try to substantiate or challenge the analysis by gaining a sense of the individual member's 'definition of the situation', such that their actual reasoning procedures could be made visible and thus open to further analysis. This would in turn provide further insight into the substantive concerns of the thesis: first, by providing greater detail on how and why initial policy decisions on the role of secrecy and anonymity in the management of information about biological origins were taken, thus filling in some of the missing aspects of the earlier adoption study, second, by showing what conceptions of 'the family' and in particular what conceptions of the distinction between biological and non-biological relationships in the family, informed members' decision-making on the new reproductive technologies in general and specifically on the question of managing origins. This approach provides an 'insider's' perspective on the committee and differs therefore from many other studies of policy committees which, in concentrating on the stages of progress, the committee mechanisms and the influential personalities, remain an outsider's perspective in which shared meanings of key concepts are assumed. In contrast, this approach seeks to explain members' formulations of those concepts. Implicit to this approach is the view that the process of production of a document is as revealing, if not more so, as the document itself.

Accomplishing the interviews

Methodological principles. The interviews with the members of the Warnock Committee drew broadly on a phenomenological approach in which data are largely grounded 'in the language and experiences of the informants' (Walker, 1985:7). David Morgan identifies five principles to this approach: taking the actor's point of view; concentrating on 'how' rather than 'why'; refusal of the 'taken-for-granted'; having a concern with everyday life; reducing the gap between observer and observed (1985:184-195). These provide a useful framework for explaining my orientation to the interviews.

Trying to understand the members' points of view was the central rationale for conducting these interviews, in order to introduce a measure of scepticism into my analysis of the Warnock Report. This analysis was done 'at a distance' from the individuals who created the Report; now I sought to understand the issues discussed by the committee from the members' point of view, to somehow get behind the Report.

This takes us to the second principle of 'how' rather than 'why': how the members made sense of what they were doing. That is, how they defined their task and how they defined the constituent elements of that task. This goes beyond the common-sense level of defining the task as 'making recommendations on the use of reproductive technologies' and attempts for example to see how members constructed their understanding of 'reproductive technologies', through examining their talk on 'reproductive technologies'. This explains the third principle of refusing to take the meaning of anything for granted: assumptions about the meaning of everyday words (and actions) have to be suspended, so that the researcher can step back from believing s/he understands what is said

and instead explores the meaning the respondent is attributing to that particular word in that particular context.

In considering the stated concern with everyday life it might be argued that the whole point about the Warnock Committee is that they were not dealing with routine events, but with extraordinary circumstances with which 'society' had not yet come to terms. On one level this is of course the case. Nevertheless, their participation in these discussions as well as the subject of the discussions, could only be grounded in everyday concepts such as 'family', 'birth', 'child' and so on. The question for the researcher is how those usages routinised the task and what ranges of meanings were attached to them. The Warnock Committee dealt with perhaps extraordinary issues but could only do so by bringing them within an everyday perspective.

The final principle refers to a closing of the gap between researcher and researched which is an injunction to acknowledge the creation of the research relationship and the significance of that for contextualising the data. It is important to recognise that interviews for example are social settings in their own right and are not simply a 'naive source of data' (Morgan, 1985:194). This means that the analysis of members' accounts should be tied to the interviews rather than directly to events in the committee itself.

Design of the semi-structured interview. Walker suggests that

semi-structured interviews are appropriate for research which seeks to provide descriptive explanations; which is concerned with sensitive and complex issues; where respondents might be suspicious of the researcher; where respondents are high status and where the analysis is

interpretative and tied to verbal communication (1985:8). All these were important features of this study (see also Moyser and Wagstaffe (1987) on studying elites). I designed the interview around six main areas, but my intention was to allow the committee members to discuss these topics in a manner and an order they deemed appropriate (see Appendix 1.1 for interview outline). The six areas of the interview were as follows: the first concerned members' current involvement in the new reproductive technologies. The purpose of this section was two-fold: first to start the interview on a fairly straight-forward topic, to allow the interviewee to relax and second, to bring me up to date with the interviewee's current activities so that I could begin to understand their perspective on these issues. The second area concerned the interviewee's views on making public policy on these topics and more specifically how they saw their own involvement. The aim here was to gain some insight into the personal aspects of being asked to go beyond the perhaps idle speculation that many people gave to this topic, to make one's views explicit through the process of formal deliberation. The third section dealt with committee procedures although I regarded this as the most dispensable section should there be a shortage of time. However, I decided to include it initially, to provide another opportunity to talk on and around these issues from another angle.

The fourth section dealt with infertility and treatment, both terms presented initially as unproblematic although I was aware of the presumptions embodied in them and was ready to explore members' views on this. It was in this and the next section, on anonymity, that I was most sensitised by the concepts and speculation embodied in my previous analysis of the Report. I hoped to explore with members their views on

the different procedures to gain an idea of the connections they drew between the issues, what they defined as being problematic, what they viewed as resolutions: in short to see how they constructed their understanding of the reproductive technologies.

The fifth area concentrated on anonymity, genetic links and identity. I wanted to gain from this section a feeling for how members viewed the consequences of these technologies for the 'child' and the family, where they felt the donors fitted in, how the child should be treated, what priorities they allocated to the designation of 'parent', the gains and losses, if that was an appropriate contrast, associated with anonymity and non-anonymity. Parallels with adoption and similar situations could be drawn if appropriate and helpful.

The final section explicitly addressed the four year gap between the interview and the publication of the Report. I wanted to see whether any of the members had changed their views, how they felt about reactions to the Report and about the likely developments following the publication of the White Paper.

Contacting the members Access to research respondents is always a delicate negotiation: access to these members, who all belonged to professional, academic and political élites could, I was aware, be even more difficult than usual (see Moyser and Wagstaffe, 1987). Therefore in my letter requesting their help I attempted: to state my initial request succinctly; to establish a research history and reputation by describing briefly my adoption research and book; to reassure the interviewee that I was not intending to ask detailed questions of recall; to lay out the general areas of discussion; to give an idea of likely length of

interview; to ask for permission to tape the discussion and finally, to state that the material would be treated confidentially and used anonymously (see Appendix 1.2).

Out of the sixteen committee members most had little hesitation in helping with the research. Only two were unable to assist: one who had retired through ill-health and another from whom it proved impossible to elicit any response despite many attempts. Another provided a very full letter which addressed the questions outlined in my request, but was unable to provide an interview again because of retirement. However, I also conducted an informal interview with a member of the secretariat.

Conducting the interviews. All the interviews were conducted during May and June 1988. Most took place in people's offices though two were conducted at the member's home. The initial impression I gained from all the members was of interest and friendliness, most had allocated about ninety minutes for the interview and seemed ready to respond to my questions. All the interviews were taped, except one.

Two questions require some thought given the nature of these interviewees: first, 'how frank are members likely to be?' (Sinclair and Brady, 1987:65) and, second, what effect did the status differential between myself and the members have on the interview? The first question is less problematic for the researcher interested in formulations than accurate history, but even so I only felt on one occasion that a member was being obviously cautious in the responses given. However, even this person became noticeably more expansive once the purpose of my interview became fully apparent. In terms of status differential, I was very conscious in some interviews that I had to retain control over the

boundaries of the discussion, in face of the temptation to simply let these very articulate people talk about a vast range of interesting but not centrally relevant issues, in the very limited time available (see Pridham, 1987 and Benney and Hughes, 1977).

There was not a great deal of variation in the length of these interviews: the shortest tape was forty five minutes, the longest was ninety minutes. I hesitated over imposing myself for any longer, although I also feel I reached a satisfactory stage in each interview. An obvious question though is whether I could have gained more from returning to conduct a second interview, especially as almost all the interviewees offered that opportunity. It might have been useful in some cases to return but perhaps less so than might be expected, given the difficulty that most members had in expressing their views on some of the central topics: it was not clear that these would become clearer and anyway their very lack of clarity was an important finding in itself.

Analysing the interviews.

The major principle of qualitative analysis is that interpretations and theory about social phenomena should be grounded in the data produced by the research participants rather than be imposed by the researcher (Strauss, 1987:11). Jones (1985b) and Lincoln and Guba (1985) provide two of the few systematic accounts of how this is done: my strategy was very similar.

The first step involves getting to know what the data set contains but with an analyst's interests rather than an interviewer's interests. Therefore my first step was to listen to all the tapes and read through all the notes I had made about the interviews. The purpose was to remind myself of what had occurred and simply to see how I reacted to the

material. Those reactions were recorded in the form of 'analytic memos', a system for monitoring the development of ideas about the data (Strauss, 1987). I then full transcribed every tape, and then read through each transcript with a clear sense of how things were said, as well as what was said. Whilst reading through I started to label and thus categorise sections of the text in terms of what was being said or referred to, for example, 'infertility', 'policy', 'adoption' and so on. This was a completely open-ended exercise, though I was clearly sensitised in my reading of the texts, by the overall interests of the research.

The next step involved extracting and grouping the categories from the transcripts. Each labelled extract was entered, usually verbatim, onto an index card, allocated to an appropriate category and indexed according to its source. Often an extract would fit into several categories at once and I would either give it multiple labels, if I wanted to remind myself of that possibility or actually write out several cards, each with a different label.

Once all the transcripts had been broken down in this way I then 'surveyed' the cards in each category, to see in what sense they might be described as constituting the category under which they were filed. I started to organise the cards into sub-categories, or patterns, to see how they shed light on different aspects of the same category. I also noted possible connections between categories. Known as the 'constant comparative' method, the purpose of this exercise is to make links within and between categories, to ensure a coherence in the analyst's second-order constructs whilst maintaining the necessary links with members' first-order constructs, that is, their everyday perceptions. Once this was done for each category I started to draw them back together again in groups of categories addressing the same central theme. As can

be seen from Chapters 4 and 5 those themes emerged on two levels: the first was organised around the structure of the original interview, the second was organised around a series of major cross-cutting themes such as 'the family' and the 'child' which had been deployed by members as explanatory concepts to convey their views on those topics which were explicitly discussed. Because I wanted to look closely at the second set of themes I conducted a second trawl through all the data cards searching specifically for extracts which could fit into categories like the above. Known as 'progressive focusing' this exercise had to come after the more open-ended exercise to avoid becoming too focused too quickly, which would have produced little more than a content analysis of the interviews. It was not clear until I had done the first exercise that this second trawl was possible, necessary and illuminating. The extracts from the second trawl were treated in the same way as those from the first. Finally, an important point which will be apparent by now is that, in writing up this data, I considered it necessary to quote extensively from the transcripts, both to convey the members' wide-ranging and varying perceptions, and to warrant the interpretations drawn from them.

Running through the analysis therefore are two considerations: a concern with what Jones describes as 'chunks of meaning', words within the contexts of their 'associated, elaborating beliefs' (1985b:68) and a concern with abstraction. The latter arises initially from the analytic memos, the

'running record of insights, hunches, hypotheses, discussions, about the implications of the codes'

(Strauss, 1987:110)

which gradually move towards providing theoretical explanations which are firmly grounded in the research data.

APPENDIX 1.1

INTERVIEW OUTLINE

(Introduce self and project; outline purpose of interview)

I CURRENT INVOLVEMENT IN THESE ISSUES:

What is your current involvement in the area of reproductive technologies/infertility treatment?

If involved, in what role, to what extent?

Do you offer any services in the field?

Are you doing/have you done any research on this topic?

Have you published anything on this, e.g. professionally/personally?

II PARTICIPATION IN THE COMMITTEE:

Prior to joining the Committee did you have any involvement in this area of work?

What was your knowledge about the new reproductive technologies prior to joining the Committee?

Were you doing work in any related areas?

Why do you think you were asked to participate in the Committee?

Did you have any hesitation in accepting?

Did you see yourself as representing any particular section of society e.g. profession/religion/ethnic views?

Did you have any particular views on the use or otherwise of these treatments for infertility?

Did you know any of the others on the Committee?

What did you think about the composition of the Committee?

Did you think the brief was appropriate?

Did you feel you were an appropriate group to advise government?

Did you consider it an area appropriate for policy intervention?

What about the view that suggests that these are private issues which should be left to the couple and their doctor?

III COMMITTEE PROCEDURES (IF TIME!)

How did the Committee establish its ways of working?

How did it work through the different issues?

Did particular issues interest you more than others?

What did you think about the range of evidence submitted to the Committee?

Was there any particular evidence that had an impact on you?

What issues did the Committee have most difficulty with?

What issues did the Committee have least difficulty with?

Did any 'voices' (professionally speaking) dominate at all?

What were your views on the dissenting reports?

IV INFERTILITY AND TREATMENT

Had you any views on infertility/childlessness prior to the Committee?
 Did you feel it was appropriate to try to treat infertility?
 Did you feel infertility treatment was an appropriate area for policy intervention?
 Should all adults be allowed to use any means to overcome infertility?
 Did you have any views about the child born as a result of such treatment?
 Did you feel it was appropriate to divide issues of infertility from issues of embryology?

Could we just go through each of the treatments the Committee considered?

Ask about: AIH

AID

Egg donation

Embryo donation

Surrogacy

and: treatment versus non-treatment; e.g. 'preferred'/'last resort'
 acceptability of donation: of sperm; of egg
 differences between sperm and egg donation (e.g. Swedish distinction)
 differences between gamete donation and surrogacy
 different types of surrogacy: for need
 for convenience
 gestatory
 genetic
 known and unknown donors, e.g. siblings
 pro and anti-family
 exploiting donors/surrogates/ the infertile/ the child
 numbers of adults/parents involved?
 unsuitable cases for treatment/donors

V GENETIC LINKS/IDENTITY

What were the relevant issues for you in deciding the question of anonymity?
 Did you feel the donors should remain anonymous? to the couple? the child? to other donors?
 How did you feel about the amount of information available to the child?
 How much should the child know? At what age?

Did you feel there were any differences whether it was egg or sperm donation? or both? or surrogacy?
 Should the AID child be legitimated? Did you have any doubts on this?
 Should the donor have any rights with regard to the child at all?

VI CHANGING VIEWS

Did your views on this change at all during the period on the Committee?

Have they changed since the Committee reported?

Have any particular events changed/affected them?

SUMMARY OF MAIN SECTIONS:

Current involvement

Committee membership

Infertility and treatment

Genetic links and identity

(Equipment: tape recorder; two tapes; batteries and spares; map, address, directions and phone number; pen and paper; interview schedule; Warnock Report; White Paper)

APPENDIX 1.2

Letter sent to members of the Warnock Committee

Dear

I am writing to ask if you could possibly give me some assistance with a piece of research I am conducting on the new reproductive technologies. Following similar work I have carried out in adoption (published as Haines and Timms Adoption, Identity and Social Policy, Gower, 1985), I wish to examine further the social and administrative processes involved in the creation of families in which the parents and children lack a full genetic relationship. The research is aimed at exploring how issues such as artificial insemination by donor, in vitro fertilisation and surrogacy are addressed in terms of the importance, or otherwise, accorded to the question of genetic links. Given the potential complexity of these issues I am particularly interested in how individuals experienced the necessity of having to reach conclusions in formulating advice to governments.

I wondered therefore if it would be at all possible to come to see you to discuss your experiences of exactly these issues as a member of the Committee of Inquiry into Human Fertilisation and Embryology? I realise it is now some time since the Committee reported, but since I am interested in the nature of the wider debate rather than the detailed discussions within the Committee itself I hope the question of recall is not too serious a hindrance.

The general areas I should like to discuss include the following:

- (i) background information on your views and knowledge prior to participation in the Committee;
- (ii) general Committee procedures and ways of working;
- (iii) infertility and treatment for having a family; issues in common and issues specific to each of the main treatments of AID, IVF and surrogacy;
- (iv) questions specific to genetic links; how to decide who should know what; who should be considered the real parents; the rights of the parents/child/donors.

The interview would take about an hour and, with your permission, I should like to tape-record it for the sake of accuracy. I shall treat the material with the utmost confidentiality and, since it is the nature and process of the debates rather than the debaters in which I am interested, any information used will be anonymous.

I hope very much that you will agree to being interviewed. I shall ring in a week's time to discuss this further with you and to answer any queries you may have. If all is well, I would hope to come to see you either in April or at the end of May/beginning of June.

Thank you.

Yours sincerely

Erica Haines
Lecturer in Sociology

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